

## Calendar No. 420

110TH CONGRESS  
1ST SESSION**S. 680**

To ensure proper oversight and accountability in Federal contracting, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2007

Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. COLEMAN, Mr. CARPER, Mrs. MCCASKILL, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

OCTOBER 15, 2007

Reported by Mr. LIEBERMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To ensure proper oversight and accountability in Federal  
contracting, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Accountability in Gov-  
5       ernment Contracting Act of 2007”.

**1 SEC. 2. TABLE OF CONTENTS.**

**2 The table of contents for this Act is as follows:**

Sec. 1. Short title.  
 Sec. 2. Table of contents.  
 Sec. 3. Definitions.

**TITLE I—CONTRACTING AND ACQUISITION REFORM**

**Subtitle A—Acquisition Workforce**

Sec. 101. Federal acquisition workforce.

**Subtitle B—Competition and Accountability**

Sec. 111. Competition in multiple award contracts.  
 Sec. 112. Statement of work requirements for certain task or delivery orders.  
 Sec. 113. Postaward briefings for task and delivery orders.  
 Sec. 114. Protests of task and delivery orders.  
 Sec. 115. Publication of justification and approval documents.  
 Sec. 116. Limitation on length of certain noncompetitive contracts.  
 Sec. 117. Prohibition on award of certain large task or delivery order contracts for services.  
 Sec. 118. Guidance on use of tiered evaluations of offers for contracts and task orders under contracts.  
 Sec. 119. Plan for minimizing cost-reimbursement contracts.

**Subtitle C—Accountability and Administration**

Sec. 121. Recording of obligations on task order contracts.  
 Sec. 122. Definitizing of letter contracts.  
 Sec. 123. Preventing abuse of interagency contracts.  
 Sec. 124. Purchase card waste elimination.  
 Sec. 125. Lead systems integrators.  
 Sec. 126. Limitations on tiering of subcontractors.  
 Sec. 127. Reform of Afghanistan assistance programs.  
 Sec. 128. Debarment of contractors that are serious threats to national security.  
 Sec. 129. Required assignment of level one certified program managers to Department of Homeland Security level one programs.  
 Sec. 130. Elimination of one-year limitation on interest due on late payments to contractors.

**TITLE II—INSPECTORS GENERAL REFORMS**

Sec. 201. Prohibition of cash bonus or awards.  
 Sec. 202. Inspectors General at level III of executive schedule.  
 Sec. 203. Qualifications of Inspectors General for designated Federal entities.  
 Sec. 204. Removal of Inspectors General for designated Federal entities.  
 Sec. 205. Subpoena power.  
 Sec. 206. Program Fraud Civil Remedies Act.

**3 SEC. 3. DEFINITIONS.**

**4 In this Act:**

1           (1) The term “executive agency” has the mean-  
2           ing given such term in section 4 of the Office of  
3           Federal Procurement Policy Act (41 U.S.C. 403).

4           (2) The term “interagency acquisition” means  
5           a procedure by which an executive agency needing  
6           supplies or services (the requesting agency) obtains  
7           them from another executive agency (the servicing  
8           agency). The term includes acquisitions under sec-  
9           tion 1535 of title 31, United States Code (commonly  
10          referred to as the “Economy Act”), Federal Supply  
11          Schedules, and governmentwide acquisition con-  
12          tracts.

13          (3) The term “micro-purchase” means a pur-  
14          chase in an amount not in excess of the micro-pur-  
15          chase threshold, as defined in section 32 of the Of-  
16          fice of Federal Procurement Policy Act (41 U.S.C.  
17          428).

18          (4) The term “multiple award contract”  
19          means—

20                (A) a contract that is entered into by the  
21                Administrator of General Services under the  
22                multiple award schedule program referred to in  
23                section 309(b)(3) of the Federal Property and  
24                Administrative Services Act of 1949 (41 U.S.C.  
25                259(b)(3));

(B) a multiple award task order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

(C) any other indefinite delivery, indefinite quantity contract that is entered into by the head of an executive agency with 2 or more sources pursuant to the same solicitation.

## **TITLE I—CONTRACTING AND ACQUISITION REFORM**

### **Subtitle A—Acquisition Workforce**

#### **SEC. 101. FEDERAL ACQUISITION WORKFORCE.**

(a) ASSISTANT ADMINISTRATOR FOR ACQUISITION WORKFORCE PROGRAMS.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following new subsection:

“(1) The Administrator shall designate a member of the Senior Executive Service as the Assistant Administrator for Workforce Programs. The Assistant Administrator shall be responsible for—

“(1) supervising the acquisition workforce training fund established under section 37(h)(3);

1           ~~“(2) administering the governmentwide acquisi-~~  
 2           ~~tion intern program established under section 43;~~

3           ~~“(3) developing, in coordination with Chief Ac-~~  
 4           ~~quisition Officers and Chief Human Capital Officers,~~  
 5           ~~a human capital strategie plan for the acquisition~~  
 6           ~~workforce of the Federal Government;~~

7           ~~“(4) recommending to the Administrator and~~  
 8           ~~other senior government officials appropriate pro-~~  
 9           ~~grams, policies, and practices to increase the quan-~~  
 10          ~~tity and quality of the Federal acquisition workforce;~~  
 11          ~~and~~

12          ~~“(5) carrying out such other functions as the~~  
 13          ~~Administrator may assign.”.~~

14          (b) GOVERNMENTWIDE ACQUISITION INTERN PRO-  
 15          GRAM.—The Office of Federal Procurement Policy Act  
 16          (41 U.S.C. 403 et seq.) is amended by adding at the end  
 17          the following new section:

18          **“SEC. 43. GOVERNMENTWIDE ACQUISITION INTERN PRO-**  
 19                  **GRAM.**

20          “(a) ESTABLISHMENT OF PROGRAM.—The Adminis-  
 21          trator shall establish a governmentwide acquisition intern  
 22          program (in this section referred to as the ‘program’) to  
 23          strengthen the Federal acquisition workforce to carry out  
 24          its key missions through the Federal procurement process;

1 with an annual goal of involving as many as 200 college  
2 graduates per year in the program.

3       ~~“(b) ADMINISTRATION OF PROGRAM.—The Assistant~~  
4 ~~Administrator for Acquisition Workforce Programs des-~~  
5 ~~ignated under section 6(1) shall be responsible for the~~  
6 ~~management, oversight, and administration of the pro-~~  
7 ~~gram and shall give strong consideration to existing simi-~~  
8 ~~lar programs and seek to build upon those programs in-~~  
9 ~~stead of replacing them.~~

10       ~~“(c) BUSINESS-RELATED COURSE WORK REQUIRE-~~  
11 ~~MENT.—~~

12               ~~“(1) IN GENERAL.—Each participant in the~~  
13 ~~program shall have completed 24 credit hours of~~  
14 ~~business-related college course work by not later~~  
15 ~~than 3 years after admission into the program.~~

16               ~~“(2) CERTIFICATION CRITERIA.—The Adminis-~~  
17 ~~trator shall establish criteria for certifying the com-~~  
18 ~~pletion of the course work requirement under para-~~  
19 ~~graph (1).~~

20       ~~“(d) STRUCTURE OF PROGRAM.—The program shall~~  
21 ~~consist of one year of preparatory education and training~~  
22 ~~in Federal procurement followed by 3 years of on-the-job~~  
23 ~~training and development focused on Federal procurement~~  
24 ~~but including rotational assignments in other functional~~  
25 ~~areas.~~

1       “(e) EMPLOYMENT STATUS OF INTERNS.—Interns  
 2 participating in the program shall be considered proba-  
 3 tionary employees without civil service protections under  
 4 chapter 33 of title 5, United States Code. In administering  
 5 any personnel ceiling applicable to an executive agency or  
 6 a unit of an executive agency, an individual assigned as  
 7 an intern under the program shall not be counted.

8       “(f) AGENCY MANAGEMENT OF PROGRAM.—The  
 9 Chief Acquisition Officer of each executive agency, in con-  
 10 sultation with the Chief Human Capital Officer of such  
 11 agency, shall establish a central intern management func-  
 12 tion in the agency to supervise and manage interns partici-  
 13 pating in the program.”.

14       (c) ACQUISITION FELLOWSHIP PROGRAM.—

15           (1) IN GENERAL.—The Director of the Office of  
 16 Personnel Management shall establish an Acquisi-  
 17 tion Fellowship Program that provides funding for  
 18 tuition, room and board, and a stipend for out-  
 19 standing students and professionals who make a  
 20 commitment to serve in the acquisition and con-  
 21 tracting fields of the Federal Government for a pe-  
 22 riod of 3 years.

23           (2) SERVICE AGREEMENTS.—The providing of  
 24 funding under this section shall be contingent upon  
 25 an individual entering into a written agreement to

1 complete 3 years of service in the acquisition and  
 2 contracting fields.

3 ~~(3) REPAYMENT REQUIREMENT.—~~Candidates  
 4 who do not successfully complete the program, or do  
 5 not fulfill the Federal work requirements in such  
 6 fields, shall be obligated to reimburse the funds pro-  
 7 vided.

8 ~~(d) GOVERNMENT-INDUSTRY EXCHANGE PRO-~~  
 9 ~~GRAM.—~~The Office of Federal Procurement Policy Act  
 10 ~~(41 U.S.C. 403 et seq.),~~ as amended by subsection (b),  
 11 is further amended by adding at the end the following new  
 12 section:

13 **“SEC. 44. GOVERNMENT-INDUSTRY EXCHANGE PROGRAM.**

14 ~~“(a) IN GENERAL.—~~The Administrator shall, in co-  
 15 ordination with the Director of the Office of Personnel  
 16 Management, establish a Federal Government-industry ex-  
 17 change program for acquisition professionals that includes  
 18 exceptional Government contracting officers.

19 ~~“(b) WORKFORCE DEVELOPMENT.—~~

20 ~~“(1) IN GENERAL.—~~In implementing the pro-  
 21 gram established under subsection (a), the Adminis-  
 22 trator shall—

23 ~~“(A) analyze, on an ongoing basis, the per-~~  
 24 ~~sonnel needs of the Federal Government related~~  
 25 ~~to acquisition and contracting;~~



1           “(B) identify where current acquisition  
2           and contracting training do not satisfy the per-  
3           sonnel needs described in subparagraph (A);

4           “(C) oversee the development of curricula;  
5           training methods; and training priorities that  
6           correspond to the projected personnel needs of  
7           the Federal Government related to acquisition  
8           and contracting; and

9           “(D) assess the training of Federal em-  
10          ployees in acquisition and contracting dis-  
11          ciplines in order to ensure that the acquisition  
12          and contracting needs of the Federal Govern-  
13          ment are addressed.

14          “(2) ACQUISITION AND CONTRACTING TRAINING  
15          PROGRAMS.—The head of each executive agency;  
16          after consultation with the Administrator, shall es-  
17          tablish and operate acquisition and contracting  
18          training programs consistent with the requirements  
19          of this subsection. Such programs shall—

20               “(A) have curricula covering a broad range  
21               of acquisition and contracting disciplines cor-  
22               responding to the specific acquisition and con-  
23               tracting needs of the agency involved;

24               “(B) be developed and applied according to  
25               rigorous standards; and

1           “(C) be designed to maximize efficiency;  
2           through the use of self-paced courses, online  
3           courses, on-the-job training, and the use of re-  
4           mote instructors, wherever such features can be  
5           applied without reducing the effectiveness of the  
6           training or negatively impacting academic  
7           standards.

8           “(3) GOVERNMENTWIDE POLICIES AND EVAL-  
9           UATION.—The Administrator, in coordination with  
10          the Director of the Office of Management and Budget,  
11          shall issue policies to promote the development of  
12          performance standards for training and uniform im-  
13          plementation of this subsection by executive agen-  
14          cies, with due regard for differences in program re-  
15          quirements among agencies that may be appropriate  
16          and warranted in view of the agency mission. The  
17          Administrator shall evaluate the implementation of  
18          the provisions of this subsection by executive agen-  
19          cies.

20          “(4) CHIEF ACQUISITION OFFICER AUTHORI-  
21          TIES AND RESPONSIBILITIES.—Subject to the au-  
22          thority, direction, and control of the head of an exec-  
23          utive agency, the Chief Acquisition Officer of such  
24          agency shall carry out all powers, functions, and du-  
25          ties of the head of the agency with respect to imple-

1       mentation of this subsection. The Chief Acquisition  
 2       Officer shall ensure that the policies of the agency  
 3       head established in accordance with this subsection  
 4       are implemented throughout the agency.

5       ~~“(5) ACQUISITION AND CONTRACTING TRAINING~~  
 6       ~~REPORTING.—~~The Administrator shall ensure that  
 7       the heads of executive agencies collect and maintain  
 8       standardized information on the acquisition and con-  
 9       tracting workforce related to the implementation of  
 10      this subsection.

11      ~~“(6) AUTHORITY TO DETAIL EMPLOYEES TO~~  
 12      ~~NON-FEDERAL EMPLOYERS.—~~In carrying out the  
 13      preceding provisions of this subsection, the Adminis-  
 14      trator may provide for a program under which a  
 15      Federal employee may be detailed to a non-Federal  
 16      employer. The Administrator shall prescribe regula-  
 17      tions for such program, including—

18           ~~“(A) the conditions for service and duties~~  
 19           as the Administrator considers necessary; and

20           ~~“(B) safeguards to avoid conflicts of inter-~~  
 21           est involving Federal employees who have been  
 22           detailed to non-Federal employers.

23      ~~“(7) COORDINATION PROVISION.—~~An assign-  
 24      ment described in section 3703 of title 5, United  
 25      States Code, may not be made unless a program

1 under paragraph (6) is established, and the assign-  
 2 ment is made in accordance with the requirements  
 3 of such program.

4 “(8) EMPLOYEE PARTICIPATION.—Subject to  
 5 acquisition and contracting needs and the limitations  
 6 imposed by resource needs in other occupational  
 7 areas, and consistent with their overall workforce de-  
 8 velopment strategies, agencies shall encourage em-  
 9 ployees to participate in occupational acquisition and  
 10 contracting training.

11 “(e) PARTICIPATION OF SMALL BUSINESSES.—In  
 12 implementing the program, the Administrator shall make  
 13 every effort to ensure that at least 20 percent of the as-  
 14 signments be made with small businesses.

15 “(d) REPORT.—Not later than 3 years after the date  
 16 of the enactment of the Accountability in Government  
 17 Contracting Act of 2007, the Administrator, in consulta-  
 18 tion with the Director of the Office of Personnel Manage-  
 19 ment, shall submit a report to Congress on the implemen-  
 20 tation of the exchange program, including any rec-  
 21 ommendations for statutory changes to enhance the utili-  
 22 zation of the program and enhance its benefits.”.

23 (e) ACQUISITION WORKFORCE HUMAN CAPITAL  
 24 STRATEGIC PLAN.—

1           (1) IN GENERAL.—Not later than 1 year after  
2           the date of the enactment of this Act, each Chief Ac-  
3           quisition Officer for an executive agency appointed  
4           pursuant to section 16 of the Office of Federal Pro-  
5           curement Policy Act (41 U.S.C. 414) shall develop,  
6           in consultation with the Chief Human Capital Offi-  
7           cer for the agency and the Assistant Administrator  
8           for Acquisition Workforce Programs, a strategic  
9           human capital plan for the recruitment, develop-  
10          ment, and retention of the agency's acquisition  
11          workforce, with a particular focus on warranted con-  
12          tracting officers of the agency.

13          (2) CONTENT OF PLAN.—The acquisition work-  
14          force human capital plan shall address—

15               (A) support for and recruitment of per-  
16               sonnel from procurement intern programs;

17               (B) development of the agency's acquisi-  
18               tion workforce, including training needs;

19               (C) development of strategies to retain  
20               high performing acquisition professionals who  
21               possess critical relevant skills;

22               (D) support for and recruitment of per-  
23               sonnel from the Federal Career Intern Pro-  
24               gram; and

1           ~~(E)~~ support for and recruitment of per-  
 2           sonnel from the Presidential Management Fel-  
 3           lows Program.

4           **Subtitle B—Competition and**  
 5           **Accountability**

6   **SEC. 111. COMPETITION IN MULTIPLE AWARD CONTRACTS.**

7           ~~(a)~~ CIVILIAN AGENCY CONTRACTS.—

8           ~~(1)~~ COMPETITION REQUIREMENT.—Subsection  
 9           ~~(b)~~ of section 303J of the Federal Property and Ad-  
 10          ministrative Services Act of 1949 (41 U.S.C.  
 11          253j(b)) is amended—

12                   ~~(A)~~ by redesignating paragraphs ~~(1)~~  
 13                   through ~~(4)~~ as subparagraphs ~~(A)~~ through ~~(D)~~,  
 14                   respectively;

15                   ~~(B)~~ by striking “CONTRACTS.—When” and  
 16                   inserting the following: “CONTRACTS.—

17                   “~~(1)~~ TASK OR DELIVERY ORDERS IN EXCESS OF  
 18                   \$2,500.—When”;

19                   ~~(C)~~ by moving each of subparagraphs ~~(A)~~  
 20                   through ~~(D)~~ (as redesignated by subparagraph  
 21                   ~~(A)~~) 2 ems to the right; and

22                   ~~(D)~~ by adding at the end the following new  
 23                   paragraph:

24                   “~~(2)~~ TASK OR DELIVERY ORDERS IN EXCESS OF  
 25                   THE SIMPLIFIED ACQUISITION THRESHOLD.—

1           “(A) IN GENERAL.—Any award that is  
 2           made under a task or delivery order contract  
 3           that is anticipated to exceed the simplified ac-  
 4           quisition threshold (as defined by section 4 of  
 5           the Office of Federal Procurement Policy Act  
 6           (41 U.S.C. 403)) shall be made on a competi-  
 7           tive basis unless a contracting officer of the ex-  
 8           ecutive agency—

9           “(i) waives the requirement on the  
 10          basis of a determination that—

11           “(I) one of the circumstances de-  
 12          scribed in subparagraphs (A) through  
 13          (D) of paragraph (1) applies to such  
 14          individual purchase; or

15           “(II) a statute expressly author-  
 16          izes or requires that the purchase be  
 17          made from a specified source; and

18           “(ii) justifies the determination in  
 19          writing.

20          “(B) COMPETITIVE BASIS DEFINED.—For  
 21          purposes of this paragraph, an individual pur-  
 22          chase of goods or services is made on a com-  
 23          petitive basis only if it is made pursuant to pro-  
 24          cedures that—

1           “(i) require fair notice of the intent to  
 2           make that purchase (including a descrip-  
 3           tion of the work to be performed and the  
 4           basis on which the selection will be made)  
 5           to be provided to all contractors offering  
 6           such goods or services under the multiple  
 7           award contract; and

8           “(ii) afford all contractors responding  
 9           to the notice a fair opportunity to make an  
 10          offer and have that offer fairly considered  
 11          by the official making the purchase.

12          “(C) EXCEPTION TO NOTICE REQUIRE-  
 13          MENT.—Notwithstanding subparagraph (B),  
 14          notice may be provided to fewer than all con-  
 15          tractors offering such goods or services under a  
 16          multiple award contract if notice is provided to  
 17          as many contractors as practicable.

18          “(D) LIMITATION TO EXCEPTION.—A pur-  
 19          chase may not be made pursuant to a notice  
 20          that is provided to fewer than all contractors  
 21          under subparagraph (C) unless—

22               “(i) offers were received from at least  
 23               3 qualified contractors; or

24               “(ii) a contracting officer of the exec-  
 25               utive agency determines in writing that no



1 additional qualified contractors were able  
 2 to be identified despite reasonable efforts  
 3 to do so.

4 “(E) INDIVIDUAL PURCHASE DEFINED.—

5 For purposes of this paragraph, the term ‘indi-  
 6 vidual purchase’ means a task order, delivery  
 7 order, or other purchase.”

8 (2) NOTICE REQUIREMENTS.—Such section is  
 9 further amended—

10 (A) by redesignating subsection (f) as sub-  
 11 section (g); and

12 (B) by inserting after subsection (e) the  
 13 following new subsection:

14 “(f) NOTICE REQUIREMENTS RELATED TO SOLE  
 15 SOURCE TASK OR DELIVERY ORDERS.—The head of each  
 16 executive agency shall—

17 “(1) publish on FedBizOpps notice of all sole  
 18 source task or delivery orders in excess of the sim-  
 19 plified acquisition threshold (as defined by section 4  
 20 of the Office of Federal Procurement Policy Act (41  
 21 U.S.C. 403)) that are placed against multiple award  
 22 contracts or multiple award blanket purchase agree-  
 23 ments not later than 10 days after such orders are  
 24 placed, except in the event of extraordinary cir-  
 25 cumstances or classified orders; and

1           “(2) publish on the Internet website of the ex-  
 2           ecutive agency and through the Federal Procure-  
 3           ment Data System the justification and approval  
 4           documents related to sole source task or delivery or-  
 5           ders placed against multiple award contracts or mul-  
 6           tiple award blank purchase agreements not later  
 7           than 14 days after such orders are placed.”.

8           (b) DEFENSE CONTRACTS.—

9           (1) COMPETITION REQUIREMENT.—Subsection  
 10          (b) of section 2304e of title 10, United States Code,  
 11          is amended—

12                 (A) by redesignating paragraphs (1)  
 13                 through (4) as subparagraphs (A) through (D),  
 14                 respectively;

15                 (B) by striking “CONTRACTS.—When” and  
 16                 inserting the following: “CONTRACTS.—

17                 “(1) TASK OR DELIVERY ORDERS IN EXCESS OF  
 18                 \$2,500.—When”;

19                 (C) by moving each of subparagraphs (A)  
 20                 through (D) (as redesignated by subparagraph  
 21                 (A)) 2 ems to the right; and

22                 (D) by adding at the end the following new  
 23                 paragraph:

24                 “(2) TASK OR DELIVERY ORDERS IN EXCESS OF  
 25                 THE SIMPLIFIED ACQUISITION THRESHOLD.—

1           “(A) IN GENERAL.—Any award that is  
 2           made under a task or delivery order contract  
 3           that is anticipated to exceed the simplified ac-  
 4           quisition threshold (as defined by section 4 of  
 5           the Office of Federal Procurement Policy Act  
 6           (41 U.S.C. 403)) shall be made on a competi-  
 7           tive basis unless a contracting officer of the  
 8           agency—

9           “(i) waives the requirement on the  
 10          basis of a determination that—

11           “(I) one of the circumstances de-  
 12          scribed in subparagraphs (A) through  
 13          (D) of paragraph (1) applies to such  
 14          individual purchase; or

15           “(II) a statute expressly author-  
 16          izes or requires that the purchase be  
 17          made from a specified source; and

18           “(ii) justifies the determination in  
 19          writing.

20          “(B) COMPETITIVE BASIS DEFINED.—For  
 21          purposes of this paragraph, an individual pur-  
 22          chase of goods or services is made on a com-  
 23          petitive basis only if it is made pursuant to pro-  
 24          cedures that—

1           “(i) require fair notice of the intent to  
 2           make that purchase (including a descrip-  
 3           tion of the work to be performed and the  
 4           basis on which the selection will be made)  
 5           to be provided to all contractors offering  
 6           such goods or services under the multiple  
 7           award contract; and

8           “(ii) afford all contractors responding  
 9           to the notice a fair opportunity to make an  
 10          offer and have that offer fairly considered  
 11          by the official making the purchase.

12          “(C) EXCEPTION TO NOTICE REQUIRE-  
 13          MENT.—Notwithstanding subparagraph (B),  
 14          notice may be provided to fewer than all con-  
 15          tractors offering such goods or services under a  
 16          multiple award contract if notice is provided to  
 17          as many contractors as practicable.

18          “(D) LIMITATION TO EXCEPTION.—A pur-  
 19          chase may not be made pursuant to a notice  
 20          that is provided to fewer than all contractors  
 21          under subparagraph (C) unless—

22               “(i) offers were received from at least  
 23               3 qualified contractors; or

24               “(ii) a contracting officer of the agen-  
 25               cy determines in writing that no additional

1                   qualified contractors were able to be identi-  
2                   fied despite reasonable efforts to do so.

3                   ~~“(E) INDIVIDUAL PURCHASE DEFINED.—~~

4                   For purposes of this paragraph, the term ‘indi-  
5                   vidual purchase’ means a task order, delivery  
6                   order, or other purchase.”.

7                   ~~(2) NOTICE REQUIREMENTS.—~~Such section is  
8                   further amended—

9                   ~~(A) by redesignating subsection (f) as sub-~~  
10                  ~~section (g); and~~

11                  ~~(B) by inserting after subsection (e) the~~  
12                  ~~following new subsection:~~

13                  ~~“(f) NOTICE REQUIREMENTS RELATED TO SOLE~~  
14                  ~~SOURCE TASK OR DELIVERY ORDERS.—~~The head of each  
15                  agency shall—

16                  ~~“(1) publish on FedBizOpps notice of all sole~~  
17                  ~~source task or delivery orders in excess of the sim-~~  
18                  ~~plified acquisition threshold (as defined by section 4~~  
19                  ~~of the Office of Federal Procurement Policy Act (41~~  
20                  ~~U.S.C. 403)) that are placed against multiple award~~  
21                  ~~contracts or multiple award blanket purchase agree-~~  
22                  ~~ments not later than 10 days after such orders are~~  
23                  ~~placed, except in the event of extraordinary cir-~~  
24                  ~~cumstances or classified orders; and~~

1           “(2) publish on the Internet website of the  
 2           agency and through the Federal Procurement Data  
 3           System the justification and approval documents re-  
 4           lated to sole source task or delivery orders placed  
 5           against multiple award contracts or multiple award  
 6           blank purchase agreements not later than 14 days  
 7           after such orders are placed.”.

8   **SEC. 112. STATEMENT OF WORK REQUIREMENTS FOR CER-**  
 9                           **TAIN TASK OR DELIVERY ORDERS.**

10       (a) **CIVILIAN CONTRACTS.**—Section 303J(c) of the  
 11       Federal Property and Administrative Services Act of 1949  
 12       (41 U.S.C. 253j(c)) is amended to read as follows:

13       “(c) **STATEMENT OF WORK AND SELECTION**  
 14       **BASIS.**—

15           “(1) **IN GENERAL.**—A task or delivery order  
 16           shall include a statement of work that clearly speci-  
 17           fies all tasks to be performed or property to be deliv-  
 18           ered under the order.

19           “(2) **TASK OR DELIVERY ORDERS IN EXCESS OF**  
 20           **\$5,000,000.**—The statement of work for a task or de-  
 21           livery order in excess of \$5,000,000 under a task or  
 22           delivery order contract shall be made available to  
 23           each contractor awarded such contract and shall—

24                   “(A) include a clear statement of the exec-  
 25                   utive agency’s requirements;

1           “(B) permit a reasonable response period;

2           “(C) disclose the significant factors and  
3 sub-factors that the executive agency expects to  
4 consider in evaluating proposals, including cost,  
5 price, and the relative importance of those and  
6 other factors;

7           “(D) in the case of an award that is to be  
8 made on a best value basis, include a written  
9 statement documenting the basis for the award  
10 and the relative importance of quality and price  
11 or cost factors; and

12           “(E) state that the technical requirements  
13 applicable to source selection in competitive ne-  
14 gotiated acquisitions shall not apply.”.

15       (b) DEFENSE CONTRACTS.—Section 2304e(e) of title  
16 10, United States Code, is amended to read as follows:

17       “(e) STATEMENT OF WORK AND SELECTION  
18 BASIS.—

19           “(1) IN GENERAL.—A task or delivery order  
20 shall include a statement of work that clearly speci-  
21 fies all tasks to be performed or property to be deliv-  
22 ered under the order.

23           “(2) TASK OR DELIVERY ORDERS IN EXCESS OF  
24 \$5,000,000.—The statement of work for a task or de-  
25 livery order in excess of \$5,000,000 under a task or

1 delivery order contract shall be made available to  
 2 each contractor awarded such contract and shall—

3 “(A) include a clear statement of the agen-  
 4 cy’s requirements;

5 “(B) permit a reasonable response period;

6 “(C) disclose the significant factors and  
 7 sub-factors that the agency expects to consider  
 8 in evaluating proposals, including cost, price,  
 9 and the relative importance of those and other  
 10 factors;

11 “(D) in the case of an award that is to be  
 12 made on a best value basis, include a written  
 13 statement documenting the basis for the award  
 14 and the relative importance of quality and price  
 15 or cost factors; and

16 “(E) state that the technical requirements  
 17 applicable to source selection in competitive ne-  
 18 gotiated acquisitions shall not apply.”.

19 **SEC. 113. POSTAWARD BRIEFINGS FOR TASK AND DELIV-**  
 20 **ERY ORDERS.**

21 (a) **CIVILIAN AGENCY CONTRACTS.**—The Federal  
 22 Property and Administrative Services Act of 1949 (41  
 23 U.S.C. 251 et seq.) is amended by inserting after section  
 24 303J the following new section:



1 ~~“SEC. 303J—1. TASK AND DELIVERY ORDER: POSTAWARD~~  
 2 ~~BRIEFINGS.~~

3 ~~“The head of an executive agency awarding a task~~  
 4 ~~or delivery order valued at over \$5,000,000 under a mul-~~  
 5 ~~tiple award contract shall provide to each offeror not~~  
 6 ~~awarded such order the opportunity for a postaward de-~~  
 7 ~~briefing. The debriefing information shall include—~~

8 ~~“(1) the executive agency’s evaluation of the~~  
 9 ~~significant weaknesses or deficiencies in the offeror’s~~  
 10 ~~proposal, if applicable;~~

11 ~~“(2) the overall evaluated cost or price (includ-~~  
 12 ~~ing unit prices), and technical rating, if applicable,~~  
 13 ~~of the successful offeror and the debriefed offeror,~~  
 14 ~~and past performance information on the debriefed~~  
 15 ~~offeror;~~

16 ~~“(3) the overall ranking of all offerors, when~~  
 17 ~~any ranking was developed by the agency during the~~  
 18 ~~source selection;~~

19 ~~“(4) a summary of the rationale for the award;~~

20 ~~“(5) for acquisitions of commercial items, the~~  
 21 ~~make and model of the item to be delivered by the~~  
 22 ~~successful offeror; and~~

23 ~~“(6) reasonable responses to relevant questions~~  
 24 ~~about whether source selection procedures contained~~  
 25 ~~in the solicitation, applicable regulations, and other~~  
 26 ~~applicable authorities were followed.”.~~

1 (b) DEFENSE CONTRACTS.—

2 (1) POSTAWARD BRIEFING REQUIREMENT.—

3 Chapter 137 of title 10, United States Code, is  
4 amended by inserting after section 2304e the fol-  
5 lowing new section:

6 **“§ 2304e-1. Task and delivery order contracts:**  
7 **postaward briefings**

8 “The head of an agency awarding a task or delivery  
9 order valued at over \$5,000,000 under a multiple award  
10 contract shall provide to each offeror not awarded such  
11 order the opportunity for a postaward debriefing. The de-  
12 briefing information shall include—

13 “(1) the agency’s evaluation of the significant  
14 weaknesses or deficiencies in the offeror’s proposal;  
15 if applicable;

16 “(2) the overall evaluated cost or price (includ-  
17 ing unit prices), and technical rating, if applicable,  
18 of the successful offeror and the debriefed offeror;  
19 and past performance information on the debriefed  
20 offeror;

21 “(3) the overall ranking of all offerors, when  
22 any ranking was developed by the agency during the  
23 source selection;

24 “(4) a summary of the rationale for the award;

1           ~~“(5) for acquisitions of commercial items, the~~  
 2           ~~make and model of the item to be delivered by the~~  
 3           ~~successful offeror; and~~

4           ~~“(6) reasonable responses to relevant questions~~  
 5           ~~about whether source selection procedures contained~~  
 6           ~~in the solicitation, applicable regulations, and other~~  
 7           ~~applicable authorities were followed.”.~~

8           (2) CLERICAL AMENDMENT.—The table of sec-  
 9           tions at the beginning of such chapter is amended  
 10          by inserting after the item relating to section 2304c  
 11          the following new item:

~~“2304c-1. Task and delivery order contracts: postaward briefings.”.~~

12 **SEC. 114. PROTESTS OF TASK AND DELIVERY ORDERS.**

13          (a) CIVILIAN AGENCY CONTRACTS.—Section 303J(d)  
 14          of the Federal Property and Administrative Services Act  
 15          of 1949 (41 U.S.C. 253j(d)) is amended to read as follows:

16          ~~“(d) PROTESTS.—(1) A protest is not authorized in~~  
 17          ~~connection with the issuance or proposed issuance of a~~  
 18          ~~task or delivery order except for—~~

19                 ~~“(A) a protest on the ground that the order in-~~  
 20                 ~~creases the scope, period, or maximum value of the~~  
 21                 ~~contract under which the order is issued; or~~

22                 ~~“(B) a protest of an order valued at greater~~  
 23                 ~~than \$5,000,000.~~

24          ~~“(2) Notwithstanding section 3556 of title 31, United~~  
 25          ~~States Code, the Comptroller General of the United States~~

1 shall have exclusive jurisdiction of a protest authorized  
 2 under paragraph (1)(B).”.

3 (b) DEFENSE CONTRACTS.—Section 2304e(d) of title  
 4 10, United States Code is amended to read as follows:

5 “(d) PROTESTS.—(1) A protest is not authorized in  
 6 connection with the issuance or proposed issuance of a  
 7 task or delivery order except for—

8 “(A) a protest on the ground that the order in-  
 9 creases the scope, period, or maximum value of the  
 10 contract under which the order is issued; or

11 “(B) a protest of an order valued at greater  
 12 than \$5,000,000.

13 “(2) Notwithstanding section 3556 of title 31, United  
 14 States Code, the Comptroller General of the United States  
 15 shall have exclusive jurisdiction of a protest authorized  
 16 under paragraph (1)(B).”.

17 (c) PREFERENCE FOR USE OF EXPRESS OPTION FOR  
 18 DECIDING PROTESTS.—Section 3554(a)(2) of title 31,  
 19 United States Code, is amended—

20 (1) by striking “(2) The Comptroller General”  
 21 and inserting “(2)(A) The Comptroller General”;  
 22 and

23 (2) by adding at the end the following new sub-  
 24 paragraph:

1       “(B) The Comptroller General shall use the express  
 2 option established pursuant to subparagraph (A) to decide  
 3 protests under section ~~303J(d)~~ of the Federal Property  
 4 and Administrative Services Act of 1949 (41 U.S.C.  
 5 ~~253j(d)~~) and section ~~2304e(d)~~ of title 10, United States  
 6 Code, related to the issuance or proposed issuance of a  
 7 task or delivery order valued at greater than \$5,000,000  
 8 and less than \$25,000,000, unless the Comptroller Gen-  
 9 eral determines that the protest is not suitable for resolu-  
 10 tion within 65 days after the date the protest is sub-  
 11 mitted.”.

12 **SEC. 115. PUBLICATION OF JUSTIFICATION AND APPROVAL**  
 13 **DOCUMENTS.**

14       (a) CIVILIAN CONTRACTS.—Section ~~303(f)(1)~~ of the  
 15 Federal Property and Administrative Services Act of 1949  
 16 (~~41 U.S.C. 253(f)(1)~~) is amended—

17           (1) in subparagraph (B)(iii), by striking “;  
 18 and” and inserting a semicolon;

19           (2) in subparagraph (C), by striking the period  
 20 at the end and inserting “; and”; and

21           (3) by adding at the end the following new sub-  
 22 paragraph:

23           “(D) the justification and approval documents  
 24 are made publicly available on the Internet website  
 25 of the agency and FedBizOpps.”.

1       (b) **DEFENSE CONTRACTS.**—Section 2304(f) of title  
2 10, United States Code, is amended—

3           (1) in subparagraph (B)(iii), by striking “;  
4 and” and inserting a semicolon;

5           (2) in subparagraph (C), by striking the period  
6 at the end and inserting “; and”; and

7           (3) by adding at the end the following new sub-  
8 paragraph:

9           “(D) the justification and approval documents  
10 are made publicly available on the Internet website  
11 of the agency and FedBizOpps.”.

12 **SEC. 116. LIMITATION ON LENGTH OF CERTAIN NON-**  
13 **COMPETITIVE CONTRACTS.**

14       (a) **CIVILIAN AGENCY CONTRACTS.**—Section 303(d)  
15 of the Federal Property and Administrative Services Act  
16 of 1949 (41 U.S.C. 253(d)) is amended by adding at the  
17 end the following new paragraph:

18       “(3)(A) The contract period of a contract described  
19 in subparagraph (B) that is entered into by an executive  
20 agency pursuant to the authority provided under sub-  
21 section (c)(2)—

22           “(i) may not exceed the time necessary—

23           “(I) to meet the unusual and compelling  
24 requirements of the work to be performed under  
25 the contract; and

1           “(H) for the executive agency to enter into  
 2           another contract for the required goods or serv-  
 3           ices through the use of competitive procedures;  
 4           and

5           “(ii) may not exceed 150 days unless the head  
 6           of the executive agency entering into such contract  
 7           determines that exceptional circumstances apply.

8           “(B) This paragraph applies to any contract in an  
 9           amount greater than the simplified acquisition threshold  
 10          (as defined by section 4 of the Office of Federal Procure-  
 11          ment Policy Act (41 U.S.C. 403)).”.

12          (b) DEFENSE CONTRACTS.—Section 2304(d) of title  
 13          10, United States Code, is amended by adding at the end  
 14          the following new paragraph:

15          “(3)(A) The contract period of a contract described  
 16          in subparagraph (B) that is entered into by an agency  
 17          pursuant to the authority provided under subsection  
 18          (e)(2)—

19                 “(i) may not exceed the time necessary—

20                         “(I) to meet the unusual and compelling  
 21                         requirements of the work to be performed under  
 22                         the contract; and

23                         “(II) for the agency to enter into another  
 24                         contract for the required goods or services  
 25                         through the use of competitive procedures; and

1           “(ii) may not exceed 150 days unless the head  
2           of the agency entering into such contract determines  
3           that exceptional circumstances apply.

4           “(B) This paragraph applies to any contract in an  
5           amount greater than the simplified acquisition threshold  
6           (as defined by section 4 of the Office of Federal Procure-  
7           ment Policy Act (41 U.S.C. 403)).”.

8   **SEC. 117. PROHIBITION ON AWARD OF CERTAIN LARGE**  
9                   **TASK OR DELIVERY ORDER CONTRACTS FOR**  
10                  **SERVICES.**

11       (a)   CIVILIAN   AGENCY   CONTRACTS.—Section  
12   303H(d) of the Federal Property and Administrative  
13   Services Act of 1949 (41 U.S.C. 253h(d)) is amended by  
14   adding at the end the following new paragraph:

15       “(4)(A) No task or delivery order contract for serv-  
16   ices in an amount estimated to exceed \$100,000,000 (in-  
17   cluding all options) may be awarded to a single contractor  
18   unless the head of the agency determines in writing that—

19           “(i) because of the size, scope, or method of  
20           performance of the requirement, it would not be  
21           practical to award multiple task or delivery order  
22           contracts;

23           “(ii) the task orders expected under the con-  
24           tract are so integrally related that only a single con-  
25           tractor can reasonably perform the work; or



1           “(iii) for any other reason, it is necessary in the  
2           public interest to award the contract to a single con-  
3           tractor.”

4           “(B) The head of the agency shall notify Congress  
5           within 30 days of any determination under subparagraph  
6           (A)(iii).”

7           “(C) The head of the agency shall post the justifica-  
8           tion and approval documents related to a determination  
9           under subparagraph (A) on the Internet website of the  
10          agency and on the Federal Business Opportunities  
11          (FedBizOpps) Internet website.”

12          (b) DEFENSE CONTRACTS.—Section 2304a(d) of title  
13          10, United States Code, is amended by adding at the end  
14          the following new paragraph:

15          “(4)(A) No task or delivery order contract for serv-  
16          ices in an amount estimated to exceed \$100,000,000 (in-  
17          cluding all options) may be awarded to a single contractor  
18          unless the head of the agency determines in writing that—

19                 “(i) because of the size, scope, or method of  
20                 performance of the requirement, it would not be  
21                 practical to award multiple task or delivery order  
22                 contracts;

23                 “(ii) the task orders expected under the con-  
24                 tract are so integrally related that only a single con-  
25                 tractor can reasonably perform the work; or

1           “(iii) for any other reason, it is necessary in the  
2           public interest to award the contract to a single con-  
3           tractor.

4           “(B) The head of the agency shall notify Congress  
5           within 30 days of any determination under subparagraph  
6           (A)(iii).

7           “(C) The head of the agency shall post the justifica-  
8           tion and approval documents related to a determination  
9           under subparagraph (A) on the Internet website of the  
10          agency and on the Federal Business Opportunities  
11          (FedBizOpps) Internet website.”.

12   **SEC. 118. GUIDANCE ON USE OF TIERED EVALUATIONS OF**  
13                           **OFFERS FOR CONTRACTS AND TASK ORDERS**  
14                           **UNDER CONTRACTS.**

15          (a) **GUIDANCE REQUIRED.**—The Administrator for  
16          Federal Procurement Policy shall prescribe guidance for  
17          executive agencies on the use of tiered evaluations of offers  
18          for contracts and for task or delivery orders under con-  
19          tracts. In prescribing such guidance, the Administrator  
20          shall give full consideration to the guidance prescribed by  
21          the Secretary of Defense under section 816 of the Na-  
22          tional Defense Authorization Act for Fiscal Year 2006  
23          (Public Law 109–163; 10 U.S.C. 2305).

24          (b) **ELEMENTS.**—The guidance prescribed under sub-  
25          section (a) shall include a prohibition on the initiation by

1 a contracting officer of a tiered evaluation of an offer for  
2 a contract or for a task or delivery order under a contract  
3 unless the contracting officer—

4 (1) has conducted market research in accord-  
5 ance with part 10 of the Federal Acquisition Regula-  
6 tion in order to determine whether or not a suffi-  
7 cient number of qualified small businesses are avail-  
8 able to justify limiting competition for the award of  
9 such contract or task or delivery order under appli-  
10 cable law and regulations;

11 (2) is unable, after conducting market research  
12 under paragraph (1), to make the determination de-  
13 scribed in that paragraph; and

14 (3) includes in the contract file a written expla-  
15 nation of why such contracting officer was unable to  
16 make such determination.

17 **SEC. 119. PLAN FOR MINIMIZING COST-REIMBURSEMENT**  
18 **CONTRACTS.**

19 The head of each executive agency shall develop a  
20 plan for minimizing the use of cost-reimbursement con-  
21 tracts.

## **Subtitle C—Accountability and Administration**

### **SEC. 121. RECORDING OF OBLIGATIONS ON TASK ORDER CONTRACTS.**

(a) CIVILIAN CONTRACTS.—

(1) IN GENERAL.—Section 303H of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h) is amended—

(A) by redesignating subsections (f) and

(g) as subsections (g) and (h), respectively; and

(B) by inserting after subsection (e) the

following new subsection:

~~“(f) AUTHORITY TO DEFER RECORDING OBLIGA-~~

~~TIONS ON TASK OR DELIVERY ORDER CONTRACTS.—(1)~~

~~Subject to paragraphs (2) and (3), the head of an executive agency may defer the recording of an obligation, including an obligation in the amount of the guaranteed minimum, under a contract awarded under this section until the issuance of a task or delivery order.~~

~~“(2) The amount of the guaranteed minimum under~~

~~a contract must be obligated during the same fiscal year during which the contract is awarded unless waived by the head of the executive agency for exceptional circumstances.~~

1       ~~“(3) The amount of the guaranteed minimum under~~  
 2   a contract may be satisfied by multiple task or delivery  
 3   orders, but the full value of each individual task or delivery  
 4   order must be obligated when such order is issued.”.

5           ~~(2) ADVISORY AND ASSISTANCE SERVICES.—~~

6       Section ~~303I~~ of such Act (~~41 U.S.C. 253i~~) is amend-  
 7       ed—

8                   ~~(A) by redesignating subsections (h) and~~  
 9                   ~~(i) as subsections (i) and (j), respectively; and~~

10                   ~~(B) by inserting after subsection (g) the~~  
 11       following new subsection:

12       ~~“(h) AUTHORITY TO DEFER RECORDING OBLIGA-~~  
 13   ~~TIONS ON TASK OR DELIVERY ORDER CONTRACTS.—(1)~~

14   Subject to paragraphs ~~(2)~~ and ~~(3)~~, the head of an execu-  
 15   tive agency may defer the recording of an obligation, in-  
 16   cluding an obligation in the amount of the guaranteed  
 17   minimum, under a contract awarded under this section  
 18   until the issuance of a task or delivery order.

19       ~~“(2) The amount of the guaranteed minimum under~~  
 20   a contract must be obligated during the same fiscal year  
 21   during which the contract is awarded unless waived by the  
 22   head of the executive agency for exceptional cir-  
 23   cumstances.

24       ~~“(3) The amount of the guaranteed minimum under~~  
 25   a contract may be satisfied by multiple task or delivery

1 orders, but the full value of each individual task or delivery  
 2 order must be obligated when such order is issued.”.

3 ~~(b) DEFENSE CONTRACTS.—~~

4 ~~(1) IN GENERAL.—~~Section 2304a of title 10,  
 5 United States Code, is amended—

6 ~~(A) by redesignating subsections (g) and~~  
 7 ~~(h) as subsections (h) and (i), respectively; and~~

8 ~~(B) by inserting after subsection (f) the~~  
 9 ~~following new subsection:~~

10 ~~“(g) AUTHORITY TO DEFER RECORDING OBLIGA-~~  
 11 ~~TIONS ON TASK OR DELIVERY ORDER CONTRACTS.—(1)~~  
 12 ~~Subject to paragraphs (2) and (3), the head of an agency~~  
 13 ~~may defer the recording of an obligation, including an obli-~~  
 14 ~~gation in the amount of the guaranteed minimum, under~~  
 15 ~~a contract awarded under this section until the issuance~~  
 16 ~~of a task or delivery order.~~

17 ~~“(2) The amount of the guaranteed minimum under~~  
 18 ~~a contract must be obligated during the same fiscal year~~  
 19 ~~during which the contract is awarded unless waived by the~~  
 20 ~~head of the agency for exceptional circumstances.~~

21 ~~“(3) The amount of the guaranteed minimum under~~  
 22 ~~a contract may be satisfied by multiple task or delivery~~  
 23 ~~orders, but the full value of each individual task or delivery~~  
 24 ~~order must be obligated when such order is issued.”.~~

1           ~~(2) ADVISORY AND ASSISTANCE SERVICES.—~~

2           Section 2304b of title 10, United States Code, is  
3           amended—

4                   (A) by redesignating subsection (f) as sub-  
5           sections (g); and

6                   (B) by inserting after subsection (e) the  
7           following new subsection:

8           ~~“(f) AUTHORITY TO DEFER RECORDING OBLIGA-~~  
9           ~~TIONS ON TASK OR DELIVERY ORDER CONTRACTS.—(1)~~

10          Subject to paragraphs (2) and (3), the head of an agency  
11          may defer the recording of an obligation, including an obli-  
12          gation in the amount of the guaranteed minimum, under  
13          a contract awarded under this section until the issuance  
14          of a task or delivery order.

15          ~~“(2) The amount of the guaranteed minimum under~~  
16          a contract must be obligated during the same fiscal year  
17          during which the contract is awarded unless waived by the  
18          head of the agency for exceptional circumstances.

19          ~~“(3) The amount of the guaranteed minimum under~~  
20          a contract may be satisfied by multiple task or delivery  
21          orders, but the full value of each individual task or delivery  
22          order must be obligated when such order is issued.”.

23          **SEC. 122. DEFINITIZING OF LETTER CONTRACTS.**

24           (a) **CIVILIAN CONTRACTS.**—The Federal Property  
25          and Administrative Services Act of 1949 (41 U.S.C. 251

1 et seq.) is amended by adding at the end the following  
 2 new section:

3 **“SEC. 318. DEFINITIZING OF LETTER CONTRACTS.**

4       “‘The head of an executive agency shall unilaterally  
 5 determine all missing terms in an undefinitized letter con-  
 6 tract that have not been agreed upon within 180 days  
 7 after such letter contract has been entered into or before  
 8 40 percent of the work under such letter contract has been  
 9 completed. Any terms so determined shall be subject to  
 10 the contract disputes process.”’.

11       (b) DEFENSE CONTRACTS.—

12               (1) DEFINITIZING OF LETTER CONTRACTS.—

13       Chapter 137 of title 40, United States Code, is  
 14 amended by inserting after at the end the following  
 15 new section:

16 **“§ 2334. Definitizing of letter contracts**

17       “‘The head of an agency shall unilaterally determine  
 18 all missing terms in an undefinitized letter contract that  
 19 have not been agreed upon within 180 days after such let-  
 20 ter contract has been entered into or before 50 percent  
 21 of the work under such letter contract has been completed.  
 22 Any terms so determined shall be subject to the contract  
 23 disputes process.”’.



1           ~~(2) CLERICAL AMENDMENT.~~—The table of sec-  
 2           tions at the beginning of such chapter is amended  
 3           by adding at the end the following new item:

“2334. Definitizing of letter contracts.”.

4   **SEC. 123. PREVENTING ABUSE OF INTERAGENCY CON-**  
 5           **TRACTS.**

6           ~~(a) OFFICE OF MANAGEMENT AND BUDGET POLICY~~  
 7   ~~GUIDANCE.~~—

8           ~~(1) REPORT AND GUIDELINES.~~—Not later than  
 9           one year after the date of the enactment of this Act,  
 10          the Director of the Office of Management and Budg-  
 11          et shall—

12                 ~~(A)~~ submit to Congress a comprehensive  
 13                 report on interagency acquisitions, including  
 14                 their frequency of use, management controls,  
 15                 cost-effectiveness, and savings generated; and

16                 ~~(B)~~ issue guidelines to assist the heads of  
 17                 executive agencies in improving the manage-  
 18                 ment of interagency acquisitions.

19           ~~(2) MATTERS COVERED BY GUIDELINES.~~—For  
 20          purposes of paragraph ~~(1)(B)~~, the Director shall in-  
 21          clude guidelines on the following matters:

22                 ~~(A)~~ Procedures for the use of interagency  
 23                 acquisitions to maximize competition, deliver  
 24                 best value to executive agencies, and minimize  
 25                 waste, fraud, and abuse.

1           (B) Categories of contracting inappropriate  
 2           for interagency acquisition, due to high risk of  
 3           waste, fraud, or abuse.

4           (C) Requirements for training acquisition  
 5           workforce personnel in the proper use of inter-  
 6           agency acquisitions.

7       (b) REGULATIONS REQUIRED.—Not later than one  
 8       year after the date of the enactment of this Act, the Fed-  
 9       eral Acquisition Regulation shall be revised to require that  
 10      all interagency acquisitions—

11           (1) include a written agreement between the re-  
 12           questing agency and the servicing agency assigning  
 13           responsibility for the administration and manage-  
 14           ment of the contract;

15           (2) include a determination that an interagency  
 16           acquisition is the best procurement alternative; and

17           (3) include sufficient documentation to ensure  
 18           an adequate audit.

19       (c) AGENCY REPORTING REQUIREMENT.—The senior  
 20       procurement executive for each executive agency shall, as  
 21       directed by the Director of the Office of Management and  
 22       Budget, submit to the Director annual reports on the ac-  
 23       tions taken by the executive agency pursuant to the guide-  
 24       lines issued under subsection (a).

25       (d) SURVEY OF INTERAGENCY CONTRACTING.—

1           (1) IN GENERAL.—Not later than 90 days after  
2           the date of the enactment of this Act, the Adminis-  
3           trator for Federal Procurement Policy shall conduct  
4           a survey of existing interagency contracts.

5           (2) CONTENT.—The survey conducted under  
6           paragraph (1) shall collect the following information:

7                   (A) The number of interagency contracts  
8                   that are currently in operation, and the scope,  
9                   sponsoring agencies, primary users, activity lev-  
10                  els (in terms of orders and value) for the most  
11                  recent fiscal year, and rationales for such con-  
12                  tracts.

13                   (B) The level of acquisition activity con-  
14                   ducted by the Intergovernmental Revolving  
15                   Funds (including the Franchise Funds) on be-  
16                   half of other executive agencies.

17                   (C) The number of enterprisewide, single  
18                   agency contracts that are currently in oper-  
19                   ation, and the scope, activity levels (in terms of  
20                   orders and value) for the most recent fiscal  
21                   year, and rationales for such contracts.

22           (3) PUBLICATION.—The Director of the Office  
23           of Management and Budget shall make the results  
24           of the survey conducted under this subsection pub-

1        likely available, subject to applicable statutory and  
2        regulatory limits on the release of such information.

3        ~~(c) REVIEW OF FEDERAL SUPPLY SCHEDULE CON-~~  
4 ~~TRACTS.—~~Not later than 270 days after the date of the  
5 enactment of this Act, the Administrator of General Serv-  
6 ices shall review existing Federal Supply Schedule (FSS)  
7 contracts to determine whether, in light of the entire in-  
8 ventory of interagency contracts, any of the FSS contracts  
9 should be eliminated in order to avoid unnecessary dupli-  
10 cation.

11        ~~(f) REVIEW OF OTHER INTERAGENCY AND~~  
12 ~~ENTERPRISEWIDE CONTRACTS.—~~Not later than 270 days  
13 after the date of the enactment of this Act, the Director  
14 of the Office of Management and Budget shall direct the  
15 heads of executive agencies to develop and institute proce-  
16 dures for the creation, expansion, oversight, and reauthor-  
17 ization of interagency and enterprisewide contracts other  
18 than the contracts described in subsections (d) and (e).  
19 The head of each executive agency shall periodically sub-  
20 mit reports to the Director on the implementation of this  
21 subsection and shall make such reports publicly available.

22        ~~(g) IMPROVED TRANSPARENCY OF INTERAGENCY~~  
23 ~~CONTRACTING DATA.—~~Not later than 180 days after the  
24 date of the enactment of this Act, the Director of the Of-  
25 fice of Management and Budget shall direct appropriate

1 revisions to the governmentwide procurement system  
 2 known as the Federal Procurement Data System-Next  
 3 Generation in order to facilitate the collecting and publica-  
 4 tion of complete and reliable order-level data on inter-  
 5 agency contracting transactions.

6 **SEC. 124. PURCHASE CARD WASTE ELIMINATION.**

7 (a) **REQUIREMENT FOR GUIDANCE.—**

8 (1) **OFFICE OF MANAGEMENT AND BUDGET**  
 9 **POLICY GUIDANCE.**—Not later than 180 days after  
 10 the date of the enactment of this Act, the Director  
 11 of the Office of Management and Budget shall issue  
 12 guidelines to assist the heads of executive agencies  
 13 in improving the management of the use of the Gov-  
 14 ernmentwide commercial purchase card for making  
 15 micro-purchases. The Director shall include guide-  
 16 lines on the following matters:

17 (A) Analysis of purchase card expenditures  
 18 to identify opportunities for achieving savings  
 19 through micro-purchases made in economical  
 20 volumes.

21 (B) Negotiation of discount agreements  
 22 with major vendors accepting the purchase  
 23 card.

24 (C) Establishment of communication pro-  
 25 grams to ensure that purchase cardholders re-

1 receive information pertaining to the availability  
 2 of discounts, including programs for the train-  
 3 ing of purchase cardholders on the availability  
 4 of discounts.

5 (D) Assessment of cardholder purchasing  
 6 practices, including use of discount agreements.

7 (E) Collection and dissemination of best  
 8 practices and successful strategies for achieving  
 9 savings in micro-purchases.

10 (F) Analysis of purchase card expenditures  
 11 to identify opportunities for achieving and accu-  
 12 rately measuring fair participation of small  
 13 business concerns in micro-purchases consistent  
 14 with the national policy on small business par-  
 15 ticipation in Federal procurement set forth in  
 16 sections 2(a) and 15(g) of the Small Business  
 17 Act (15 U.S.C. 631(a) and 644(g)), and dis-  
 18 semination of best practices for participation of  
 19 small business concerns in micro-purchases.

20 (2) GENERAL SERVICES ADMINISTRATION.—

21 The Administrator of General Services shall—

22 (A) continue efforts to improve reporting  
 23 by financial institutions that issue the Govern-  
 24 mentwide commercial purchase card so that the  
 25 General Services Administration has the data

1           needed to identify opportunities for achieving  
2           savings; and

3           (B) actively pursue point-of-sale discounts  
4           with major vendors accepting the purchase card  
5           so that any Federal Government purchaser  
6           using the purchase card can benefit from such  
7           point-of-sale discounts.

8           (3) AGENCY REPORTING REQUIREMENT.—The  
9           senior procurement executive for each executive  
10          agency shall, as directed by the Director of the Of-  
11          fice of Management and Budget, submit to the Di-  
12          rector periodic reports on the actions taken in such  
13          executive agency pursuant to the guidelines issued  
14          under paragraph (1).

15          (4) CONGRESSIONAL OVERSIGHT.—Not later  
16          than December 31 of the year following the year in  
17          which this Act is enacted, and December 31 of each  
18          of the ensuing 3 years, the Director of the Office of  
19          Management and Budget shall submit to the Com-  
20          mittee on Homeland Security and Governmental Af-  
21          fairs of the Senate and the Committee on Oversight  
22          and Government Reform of the House of Represent-  
23          atives a report summarizing for the fiscal year end-  
24          ing in the year in which such report is due the  
25          progress made—

1           (A) in improving the management of the  
 2           use of the Governmentwide commercial pur-  
 3           chase card for making micro-purchases; and

4           (B) in achieving savings in micro-pur-  
 5           chases made with such card, expressed in terms  
 6           of average savings achieved by each executive  
 7           agency in the use of discount agreements identi-  
 8           fied in paragraph (1) and the total savings  
 9           achieved Governmentwide.

10       (b) PAYMENTS TO FEDERAL CONTRACTORS WITH  
 11       FEDERAL TAX DEBT.—The General Services Administra-  
 12       tion, in conjunction with the Internal Revenue Service and  
 13       the Financial Management Service, shall develop proce-  
 14       dures to subject purchase card payments to Federal con-  
 15       tractors to the Federal Payment Levy program.

16       (c) REPORTING OF AIR TRAVEL BY FEDERAL GOV-  
 17       ERNMENT EMPLOYEES.—

18           (1) ANNUAL REPORTS REQUIRED.—The Admin-  
 19       istrator of the General Services shall submit annu-  
 20       ally to the Committee on Homeland Security and  
 21       Governmental Affairs of the Senate and the Com-  
 22       mittee on Oversight and Government Reform of the  
 23       House of Representatives a report on all first class  
 24       and business class travel by employees of each exec-



1       ative agency undertaken at the expense of the Fed-  
2       eral Government.

3           ~~(2) CONTENT.~~—The reports submitted pursu-  
4       ant to paragraph ~~(1)~~ shall include, at a minimum,  
5       with respect to each travel by first class or business  
6       class—

7                   ~~(A)~~ the names of each traveler;

8                   ~~(B)~~ the date of travel;

9                   ~~(C)~~ the points of origination and destina-  
10       tion;

11                   ~~(D)~~ the cost of the first class or business  
12       class travel; and

13                   ~~(E)~~ the cost difference between such travel  
14       and travel by coach class.

15   **SEC. 125. LEAD SYSTEMS INTEGRATORS.**

16       ~~(a) STUDY.~~—Not later than 180 days after the date  
17       of the enactment of this Act, the Administrator for Fed-  
18       eral Procurement Policy shall develop a government-wide  
19       definition of lead systems integrators and complete a  
20       study the use of such integrators by executive agencies.

21       ~~(b) RECOMMENDATIONS.~~—Not later than 180 days  
22       after the study under subsection ~~(a)~~ is completed, the Ad-  
23       ministrator for Federal Procurement Policy shall submit  
24       to Congress recommendations for regulations to control

1 the use of lead systems integrators to ensure that they  
2 are used in the best interests of the Federal Government.

3 **SEC. 126. LIMITATIONS ON TIERING OF SUBCONTRACTORS.**

4 (a) **REGULATIONS.**—The Administrator for Federal  
5 Procurement Policy shall promulgate regulations applica-  
6 ble to contracts described in subsection (c) to minimize  
7 the excessive use by contractors of subcontractors or tiers  
8 of subcontractors to perform the principal work of the con-  
9 tract.

10 (b) **SPECIFIC REQUIREMENT.**—At a minimum, the  
11 regulations promulgated under subsection (a) shall pre-  
12 clude a contractor from using subcontracts for more than  
13 65 percent of the cost of the contract or the cost of any  
14 individual task or delivery order (not including overhead  
15 and profit), unless the head of the executive agency award-  
16 ing the contract determines that such requirement is not  
17 feasible or practicable.

18 (c) **COVERED CONTRACTS.**—This section applies to  
19 any cost-reimbursement type contract or task or delivery  
20 order in an amount greater than the simplified acquisition  
21 threshold (as defined by section 4 of the Office of Federal  
22 Procurement Policy Act (41 U.S.C. 403)).

1 **SEC. 127. REFORM OF AFGHANISTAN ASSISTANCE PRO-**  
2 **GRAMS.**

3 (a) **REPORT.**—Not later than 180 days after the date  
4 of the enactment of this Act, the Administrator of the  
5 United States Agency for International Development shall  
6 submit to Congress a report on the Agency's assistance  
7 programs in Afghanistan.

8 (b) **CONTENTS.**—The report required under sub-  
9 section (a) shall include—

10 (1) information about the Agency's assistance  
11 programs in Afghanistan, including—

12 (A) the amount of assistance that has been  
13 designated for projects in Afghanistan since fis-  
14 cal year 2002;

15 (B) the amount of money that has been  
16 obligated for such purposes;

17 (C) the amount of money that has been ex-  
18 pended for such purposes;

19 (D) the number of projects that have been  
20 designated or planned under such programs;

21 (E) the level of oversight exercised over  
22 such programs by the Department of State, the  
23 Agency, and the Government Accountability Of-  
24 fice;

25 (F) the specific projects reviewed as part  
26 of such oversight; and

1                   (G) the findings related to such oversight;  
 2                   and

3                   (2) a plan for revising the Agency's strategy for  
 4                   such assistance programs, including—

5                   (A) developing measurable goals, specific  
 6                   time frames, and established resource levels;

7                   (B) delineating responsibilities related to  
 8                   providing assistance;

9                   (C) identifying external factors that could  
 10                  significantly affect the achievement of the  
 11                  Agency's goals; and

12                  (D) developing a schedule for program  
 13                  evaluations to assess progress made in achiev-  
 14                  ing the Agency's goals.

15 **SEC. 128. DEBARMENT OF CONTRACTORS THAT ARE SERI-**  
 16 **OUS THREATS TO NATIONAL SECURITY.**

17           (a) **DEBARMENT.**—The head of any executive agency  
 18 may debar a contractor from eligibility for Federal con-  
 19 tracts on the basis of a finding that the contractor is a  
 20 serious threat to national security.

21           (b) **INCLUSION ON LIST OF PARTIES EXCLUDED**  
 22 **FROM FEDERAL PROCUREMENT AND NONPROCUREMENT**  
 23 **PROGRAMS.**—The Administrator of General Services shall  
 24 include on the List of Parties Excluded from Federal Pro-  
 25 curement and Nonprocurement Programs maintained by

1 the Administrator under part 9 of the Federal Acquisition  
 2 Regulation each contractor that is debarred or proposed  
 3 for debarment under subsection (a).

4 **SEC. 129. REQUIRED ASSIGNMENT OF LEVEL ONE CER-**  
 5 **TIFIED PROGRAM MANAGERS TO DEPART-**  
 6 **MENT OF HOMELAND SECURITY LEVEL ONE**  
 7 **PROGRAMS.**

8 Not later than one year after the date of the enact-  
 9 ment of this Act, the Secretary of Homeland Security shall  
 10 assign to each program of the Department of Homeland  
 11 Security with an estimated value of more than  
 12 \$100,000,000 at least one program manager certified by  
 13 the Secretary as competent to administer programs of that  
 14 size.

15 **SEC. 130. ELIMINATION OF ONE-YEAR LIMITATION ON IN-**  
 16 **TEREST DUE ON LATE PAYMENTS TO CON-**  
 17 **TRACTORS.**

18 Section 3901(d)(3)(A) of title 31, United States  
 19 Code, is amended to read as follows:

20 “(3)(A) Except as provided in subparagraph (B), an  
 21 interest penalty under this chapter does not continue to  
 22 accrue after a claim for an interest penalty is filed in the  
 23 manner described in paragraph (2).”.

## TITLE II—INSPECTORS GENERAL REFORMS

### SEC. 201. PROHIBITION OF CASH BONUS OR AWARDS.

Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(e) An Inspector General (as defined under section 86(a)(6) or 11(3)) may not receive any cash award or cash bonus, including any cash award under chapter 45 of title 5, United States Code.”.

### SEC. 202. INSPECTORS GENERAL AT LEVEL III OF EXECUTIVE SCHEDULE.

(a) LEVEL IV POSITIONS.—Section 5315 of title 5, United States Code, is amended by striking each item relating to the following positions:

(1) Inspector General, Department of Education.

(2) Inspector General, Department of Energy.

(3) Inspector General, Department of Health and Human Services.

(4) Inspector General, Department of Agriculture.

(5) Inspector General, Department of Housing and Urban Development.

(6) Inspector General, Department of Labor.

1           (7) Inspector General, Department of Trans-  
2           portation.

3           (8) Inspector General, Department of Veterans  
4           Affairs.

5           (9) Inspector General, Department of Home-  
6           land Security.

7           (10) Inspector General, Department of Defense.

8           (11) Inspector General, Department of State.

9           (12) Inspector General, Department of Com-  
10          merce.

11          (13) Inspector General, Department of the In-  
12          terior.

13          (14) Inspector General, Department of Justice.

14          (15) Inspector General, Department of the  
15          Treasury.

16          (16) Inspector General, Agency for Inter-  
17          national Development.

18          (17) Inspector General, Environmental Protec-  
19          tion Agency.

20          (18) Inspector General, Export-Import Bank.

21          (19) Inspector General, Federal Emergency  
22          Management Agency.

23          (20) Inspector General, General Services Ad-  
24          ministration.

1           (21) Inspector General, National Aeronautics  
2           and Space Administration.

3           (22) Inspector General, Nuclear Regulatory  
4           Commission.

5           (23) Inspector General, Office of Personnel  
6           Management.

7           (24) Inspector General, Railroad Retirement  
8           Board.

9           (25) Inspector General, Small Business Admin-  
10          istration.

11          (26) Inspector General, Tennessee Valley Au-  
12          thority.

13          (27) Inspector General, Federal Deposit Insur-  
14          ance Corporation.

15          (28) Inspector General, Resolution Trust Cor-  
16          poration.

17          (29) Inspector General, Central Intelligence  
18          Agency.

19          (30) Inspector General, Social Security Admin-  
20          istration.

21          (31) Inspector General, United States Postal  
22          Service.

23          (b) LEVEL III POSITIONS.—Section 5314 of title 5,  
24          United States Code, is amended by adding at the end the  
25          following:



1           “Inspector General, Department of Education.

2           “Inspector General, Department of Energy.

3           “Inspector General, Department of Health and  
4 Human Services.

5           “Inspector General, Department of Agriculture.

6           “Inspector General, Department of Housing  
7 and Urban Development.

8           “Inspector General, Department of Labor.

9           “Inspector General, Department of Transpor-  
10 tation.

11          “Inspector General, Department of Veterans  
12 Affairs.

13          “Inspector General, Department of Homeland  
14 Security.

15          “Inspector General, Department of Defense.

16          “Inspector General, Department of State.

17          “Inspector General, Department of Commerce.

18          “Inspector General, Department of the Interior.

19          “Inspector General, Department of Justice.

20          “Inspector General, Department of the Treas-  
21 ury.

22          “Inspector General, Agency for International  
23 Development.

24          “Inspector General, Corporation for Community  
25 and National Service.

1           “Inspector General, Environmental Protection  
2   Agency.

3           “Inspector General, Export-Import Bank.

4           “Inspector General, Federal Emergency Man-  
5   agement Agency.

6           “Inspector General, General Services Adminis-  
7   tration.

8           “Inspector General, National Aeronautics and  
9   Space Administration.

10          “Inspector General, Nuclear Regulatory Com-  
11   mission.

12          “Inspector General, Office of Personnel Man-  
13   agement.

14          “Inspector General, Railroad Retirement  
15   Board.

16          “Inspector General, Small Business Administra-  
17   tion.

18          “Inspector General, Tennessee Valley Author-  
19   ity.

20          “Inspector General, Federal Deposit Insurance  
21   Corporation.

22          “Inspector General, Central Intelligence Agen-  
23   cy.

24          “Inspector General, Social Security Administra-  
25   tion.

1           “Inspector General, United States Postal Serv-  
2       ice.”.

3       ~~(c) SAVINGS PROVISION.—Nothing in this section~~  
4       shall have the effect of reducing the rate of pay of any  
5       individual serving as an Inspector General on the effective  
6       date of this section.

7       **SEC. 203. QUALIFICATIONS OF INSPECTORS GENERAL FOR**  
8                               **DESIGNATED FEDERAL ENTITIES.**

9       Section 8G(e) of the Inspector General Act of 1978  
10    ~~(5 U.S.C. App.) is amended by adding at the end “Each~~  
11    Inspector General shall be appointed without regard to po-  
12    litical affiliation and solely on the basis of integrity and  
13    demonstrated ability in accounting, auditing, financial  
14    analysis, law, management analysis, public administration,  
15    or investigations.”.

16    **SEC. 204. REMOVAL OF INSPECTORS GENERAL FOR DES-**  
17                               **IGNATED FEDERAL ENTITIES.**

18    Section 8G(e) of the Inspector General Act of 1978  
19    ~~(5 U.S.C. App.) is amended by striking “shall promptly~~  
20    communicate in writing the reasons for any such removal  
21    or transfer to both Houses of the Congress” and inserting  
22    “shall communicate in writing the reasons for any such  
23    removal or transfer to both Houses of the Congress, not  
24    later than 15 days before the removal or transfer”.

1 **SEC. 205. SUBPOENA POWER.**

2 Section 6(a)(4) of the Inspector General Act of 1978  
3 (~~5 U.S.C. App.~~), is amended—

4 (1) by inserting “in any medium (including  
5 electronically stored information, as well as any tan-  
6 gible thing)” after “other data”; and

7 (2) by striking “subpena” and inserting “sub-  
8 poena”.

9 **SEC. 206. PROGRAM FRAUD CIVIL REMEDIES ACT.**

10 Section 3801(a)(1) of title 31, United States Code,  
11 is amended—

12 (1) in subparagraph (C), by striking “and”  
13 after the semicolon;

14 (2) in subparagraph (D), by adding “and” after  
15 the semicolon ; and

16 (3) by adding at the end the following:

17 “(E) a designated Federal entity (as such  
18 term is defined under section 8G(a)(2) of the  
19 Inspector General Act of 1978).”.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Accountability in Gov-*  
22 *ernment Contracting Act of 2007”.*

23 **SEC. 2. TABLE OF CONTENTS.**

24 *The table of contents for this Act is as follows:*

*Sec. 1. Short title.*

*Sec. 2. Table of contents.*

*Sec. 3. Definitions.*

*TITLE I—ACQUISITION WORKFORCE*

*Sec. 101. Federal acquisition workforce.*

*TITLE II—COMPETITION AND ACCOUNTABILITY*

*Sec. 201. Requirement for purchase of property and services pursuant to multiple award contracts.*

*Sec. 202. Statement of work requirements for certain task or delivery orders.*

*Sec. 203. Protests of task and delivery orders.*

*Sec. 204. Publication of justification and approval documents.*

*Sec. 205. Limitation on length of certain noncompetitive contracts.*

*Sec. 206. Prohibition on award of certain large task or delivery order contracts for services.*

*Sec. 207. Guidance on use of tiered evaluations of offers for contracts and task orders under contracts.*

*Sec. 208. Guidance on use of cost-reimbursement contracts.*

*Sec. 209. Preventing conflicts of interest.*

*Sec. 210. Linking of award and incentive fees to acquisition outcomes.*

*TITLE III—ACCOUNTABILITY AND ADMINISTRATION*

*Sec. 301. Recording of obligations on task order contracts.*

*Sec. 302. Definitizing of letter contracts.*

*Sec. 303. Preventing abuse of interagency contracts and assisted acquisition services.*

*Sec. 304. Purchase card waste elimination.*

*Sec. 305. Lead systems integrators.*

*Sec. 306. Limitations on tiering of subcontractors.*

*Sec. 307. Responsibility of contractors that are serious threats to national security.*

*Sec. 308. Required certification of program managers for Department of Homeland Security level one programs.*

*Sec. 309. Elimination of one-year limitation on interest due on late payments to contractors.*

*Sec. 310. Ensuring that Federal employees perform inherently governmental work.*

*Sec. 311. Report on Acquisition Advisory Panel report implementation.*

*Sec. 312. Report by the Government Accountability Office.*

*Sec. 313. Mapping and surveying services.*

*Sec. 314. Timely and accurate transmission of information included in Federal Procurement Data System.*

**1 SEC. 3. DEFINITIONS.**

**2       *In this Act:***

**3               (1) Except as otherwise provided, the term “exec-**  
**4       *utive agency” has the meaning given such term in***  
**5       *section 4 of the Office of Federal Procurement Policy***  
**6       *Act (41 U.S.C. 403).***

(2) *The term “assisted acquisition” means a procedure by which an executive agency needing supplies or services (the requesting agency) obtains them from another executive agency (the servicing agency). The term includes acquisitions under section 1535 of title 31, United States Code (commonly referred to as the “Economy Act”), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Clinger-Cohen Act of 1996 (division E of Public Law 104–106), and the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410).*

(3) *The term “micro-purchase” means a purchase in an amount not in excess of the micro-purchase threshold, as defined in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).*

(4) *The term “multi-agency contract” means any contract available for use by more than 1 executive agency.*

## **TITLE I—ACQUISITION WORKFORCE**

### **SEC. 101. FEDERAL ACQUISITION WORKFORCE.**

(a) *ASSOCIATE ADMINISTRATOR FOR ACQUISITION  
WORKFORCE PROGRAMS.*—Section 6 of the Office of Federal

1 *Procurement Policy Act (41 U.S.C. 405) is amended by*  
2 *adding at the end the following new subsection:*

3       “(l) *The Administrator shall designate a member of*  
4 *the Senior Executive Service as the Associate Administrator*  
5 *for Workforce Programs. The Associate Administrator for*  
6 *Workforce Programs shall be located in the Federal Acquisi-*  
7 *tion Institute, or its successor. The Associate Administrator*  
8 *shall be responsible for—*

9               “(1) *supervising the acquisition workforce train-*  
10 *ing fund established under section 37(h)(3);*

11               “(2) *administering the government-wide acquisi-*  
12 *tion intern program established under section 43;*

13               “(3) *developing, in coordination with Chief Ac-*  
14 *quisition Officers and Chief Human Capital Officers,*  
15 *a human capital strategic plan for the acquisition*  
16 *workforce of the Federal Government;*

17               “(4) *reviewing and providing input to indi-*  
18 *vidual agency acquisition workforce succession plans;*

19               “(5) *recommending to the Administrator and*  
20 *other senior government officials appropriate pro-*  
21 *grams, policies, and practices to increase the quantity*  
22 *and quality of the Federal acquisition workforce; and*

23               “(6) *carrying out such other functions as the Ad-*  
24 *ministrator may assign.”.*

1       (b) *GOVERNMENT-WIDE ACQUISITION INTERN PRO-*  
 2 *GRAM.—The Office of Federal Procurement Policy Act (41*  
 3 *U.S.C. 403 et seq.) is amended by adding at the end the*  
 4 *following new section:*

5       **“SEC. 43. GOVERNMENT-WIDE ACQUISITION INTERN PRO-**  
 6                               **GRAM.**

7       “(a) *ESTABLISHMENT OF PROGRAM.—The Adminis-*  
 8 *trator shall establish a government-wide Acquisition Intern*  
 9 *Program to strengthen the Federal acquisition workforce to*  
 10 *carry out its key missions through the Federal procurement*  
 11 *process. The Administrator shall have a goal of involving*  
 12 *not less than 200 college graduates per year in the Acquisi-*  
 13 *tion Intern Program.*

14       “(b) *ADMINISTRATION OF PROGRAMS.—The Associate*  
 15 *Administrator for Acquisition Workforce Programs des-*  
 16 *ignated under section 6(l) shall be responsible for the man-*  
 17 *agement, oversight, and administration of the Acquisition*  
 18 *Intern Program and shall give strong consideration to uti-*  
 19 *lizing existing similar programs and seek to build upon*  
 20 *those programs instead of replacing them or creating new*  
 21 *programs.*

22       “(c) *TERMS OF ACQUISITION INTERN PROGRAM.—*

23               “(1) *BUSINESS-RELATED COURSE WORK RE-*  
 24 *QUIREMENT.—*



1           “(A) *IN GENERAL.*—*Each participant in*  
2           *the Acquisition Intern Program shall have com-*  
3           *pleted 24 credit hours of business-related college*  
4           *course work by not later than 3 years after ad-*  
5           *mission into the program.*

6           “(B) *CERTIFICATION CRITERIA.*—*The Ad-*  
7           *ministrator shall establish criteria for certifying*  
8           *the completion of the course work requirement*  
9           *under subparagraph (A).*

10          “(2) *STRUCTURE OF PROGRAM.*—*The Acquisition*  
11          *Intern Program shall consist of one year of pre-*  
12          *paratory education and training in Federal procure-*  
13          *ment followed by 3 years of on-the-job training and*  
14          *development focused on Federal procurement but in-*  
15          *cluding rotational assignments in other functional*  
16          *areas.*

17          “(3) *EMPLOYMENT STATUS OF INTERNS.*—*In-*  
18          *terns participating in the Acquisition Intern Pro-*  
19          *gram shall be considered probationary employees*  
20          *without civil service protections under chapter 33 of*  
21          *title 5, United States Code. In administering any*  
22          *personnel ceiling applicable to an executive agency or*  
23          *a unit of an executive agency, an individual assigned*  
24          *as an intern under the program shall not be counted.*

1           “(4) *AGENCY MANAGEMENT OF PROGRAM.*—*The*  
 2           *Chief Acquisition Officer of each executive agency, in*  
 3           *consultation with the Chief Human Capital Officer of*  
 4           *such agency, shall establish a central intern manage-*  
 5           *ment function in the agency to supervise and manage*  
 6           *interns participating in the Acquisition Intern Pro-*  
 7           *gram.*”.

8           (c) *CONTINGENCY CONTRACTING CORPS.*—*The Office*  
 9           *of Federal Procurement Policy Act (41 U.S.C. 403 et seq.),*  
 10          *as amended by subsection (b), is further amended by adding*  
 11          *at the end the following new section:*

12       **“SEC. 44. CONTINGENCY CONTRACTING CORPS.**

13           “(a) *ESTABLISHMENT.*—*The Administrator shall es-*  
 14          *tablish a government-wide Contingency Contracting Corps*  
 15          *(in this section, referred to as the ‘Corps’). The members*  
 16          *of the Corps shall be available for deployment in responding*  
 17          *to disasters, natural and man-made, and contingency oper-*  
 18          *ations both within and outside the continental United*  
 19          *States.*

20           “(b) *MEMBERSHIP.*—*Membership in the Corps shall be*  
 21          *voluntary and open to all Federal employees, including uni-*  
 22          *formed members of the Armed Services, who are currently*  
 23          *members of the Federal acquisition workforce.*

24           “(c) *EDUCATION AND TRAINING.*—*The Administrator*  
 25          *may establish additional educational and training require-*

1 ments, and may pay for these additional requirements from  
 2 funds available in the acquisition workforce training fund.

3 “(d) *CLOTHING AND EQUIPMENT.*—*The Administrator*  
 4 *shall identify any necessary clothing and equipment re-*  
 5 *quirements, and may pay for this clothing and equipment*  
 6 *from funds available in the acquisition workforce training*  
 7 *fund.*

8 “(e) *SALARY.*—*The salaries for members of the Corps*  
 9 *shall be paid by their parent agencies out of existing appro-*  
 10 *priations.*

11 “(f) *AUTHORITY TO DEPLOY THE CORPS.*—*The Ad-*  
 12 *ministrator, or the Administrator’s designee, shall have the*  
 13 *authority to determine when members of the Corps shall be*  
 14 *deployed, in consultation with the head of the agency or*  
 15 *agencies employing the members to be deployed.*

16 “(g) *ANNUAL REPORT.*—

17 “(1) *IN GENERAL.*—*The Administrator shall pro-*  
 18 *vide to the Committee on Homeland Security and*  
 19 *Governmental Affairs and the Committee on Armed*  
 20 *Services of the Senate and the Committee on Over-*  
 21 *sight and Government Reform and the Committee on*  
 22 *Armed Services of the House of Representatives an*  
 23 *annual report on the status of the Contingency Con-*  
 24 *tracting Corps.*

1           “(2) *CONTENT.*—*At a minimum, each report*  
 2           *under paragraph (1) shall include the number of*  
 3           *members of the Contingency Contracting Corps, the*  
 4           *fully burdened cost of operating the program, the*  
 5           *number of deployments of members of the program,*  
 6           *and the performance of members of the program in*  
 7           *deployment.”.*

8           *(d) ACQUISITION AND CONTRACTING TRAINING PRO-*  
 9           *GRAMS.*—*The head of each executive agency, after consulta-*  
 10          *tion with the Associate Administrator for Acquisition Work-*  
 11          *force Programs, shall establish and operate acquisition and*  
 12          *contracting training programs. Such programs shall—*

13                 *(1) have curricula covering a broad range of ac-*  
 14                 *quisition and contracting disciplines corresponding to*  
 15                 *the specific acquisition and contracting needs of the*  
 16                 *agency involved;*

17                 *(2) be developed and applied according to rig-*  
 18                 *orous standards; and*

19                 *(3) be designed to maximize efficiency, through*  
 20                 *the use of self-paced courses, online courses, on-the-job*  
 21                 *training, and the use of remote instructors, wherever*  
 22                 *such features can be applied without reducing the ef-*  
 23                 *fectiveness of the training or negatively impacting*  
 24                 *academic standards.*

1       (e) *GOVERNMENT-WIDE POLICIES AND EVALUATION.*—  
 2   *The Administrator shall issue policies to promote the devel-*  
 3   *opment of performance standards for training and uniform*  
 4   *implementation of this subsection by executive agencies,*  
 5   *with due regard for differences in program requirements*  
 6   *among agencies that may be appropriate and warranted*  
 7   *in view of the agency mission. The Administrator shall*  
 8   *evaluate the implementation of the provisions of subsection*  
 9   *(d) by executive agencies.*

10       (f) *CHIEF ACQUISITION OFFICER AUTHORITIES AND*  
 11   *RESPONSIBILITIES.*—*Subject to the authority, direction,*  
 12   *and control of the head of an executive agency, the Chief*  
 13   *Acquisition Officer of such agency shall carry out all pow-*  
 14   *ers, functions, and duties of the head of the agency with*  
 15   *respect to implementation of subsection (d). The Chief Ac-*  
 16   *quisition Officer shall ensure that the policies of the agency*  
 17   *head established in accordance with such subsection are im-*  
 18   *plemented throughout the agency.*

19       (g) *ACQUISITION AND CONTRACTING TRAINING RE-*  
 20   *PORTING.*—*The Administrator shall ensure that the heads*  
 21   *of executive agencies collect and maintain standardized in-*  
 22   *formation on the acquisition and contracting workforce re-*  
 23   *lated to the implementation of subsection (d).*

24       (h) *ACQUISITION WORKFORCE HUMAN CAPITAL SUC-*  
 25   *CESSION PLAN.*—

1           (1) *IN GENERAL.*—Not later than 1 year after  
2     the date of the enactment of this Act, each Chief Ac-  
3     quisition Officer for an executive agency appointed  
4     pursuant to section 16 of the Office of Federal Pro-  
5     curement Policy Act (41 U.S.C. 414) shall develop, in  
6     consultation with the Chief Human Capital Officer  
7     for the agency and the Associate Administrator for  
8     Acquisition Workforce Programs, a succession plan  
9     consistent with the agency’s strategic human capital  
10    plan for the recruitment, development, and retention  
11    of the agency’s acquisition workforce, with a par-  
12    ticular focus on warranted contracting officers and  
13    program managers of the agency.

14           (2) *CONTENT OF PLAN.*—The acquisition work-  
15    force succession plan shall address—

16           (A) recruitment goals for personnel from  
17    procurement intern programs;

18           (B) the agency’s acquisition workforce  
19    training needs;

20           (C) actions to retain high performing acqui-  
21    sition professionals who possess critical relevant  
22    skills;

23           (D) recruitment goals for personnel from the  
24    Federal Career Intern Program; and

1                   (E) recruitment goals for personnel from the  
2                   *Presidential Management Fellows Program.*

3           (i) *AUTHORIZATION OF APPROPRIATIONS FOR ACQUI-*  
4 *SITION PROGRAMS.—*

5                   (1) *AUTHORIZATION.—There is authorized to be*  
6 *appropriated \$5,000,000 for each of fiscal years 2008*  
7 *and 2009 for the acquisition workforce training fund.*

8                   (2) *USE OF FUNDS.—Amounts appropriated*  
9 *pursuant to the authorization of appropriations in*  
10 *paragraph (1) shall be used for—*

11                   (A) *the establishment salary of the Associate*  
12 *Administrator for Acquisition Workforce Train-*  
13 *ing Programs;*

14                   (B) *the establishment and operations of the*  
15 *Acquisition Intern Program and the Contin-*  
16 *gency Contracting Corps;*

17                   (C) *the costs of administering the acquisi-*  
18 *tion workforce training fund, not to exceed 10*  
19 *percent of the total funds available in the Fund;*  
20 *and*

21                   (D) *the equipping, education, and training*  
22 *of participants in the Acquisition Intern Pro-*  
23 *gram, personnel recruited from the Presidential*  
24 *Management Fellowship Program, personnel re-*

1           *cruted from the Federal Career Intern Program,*  
 2           *and Contingency Contracting Corps Program.*

3           (3) *AVAILABILITY.*—*Amounts appropriated pur-*  
 4           *suant to the authorization of appropriations under*  
 5           *paragraph (1) shall remain available until expended.*

6           (j) *ELIMINATION OF SUNSET PROVISION FOR ACQUI-*  
 7           *SION WORKFORCE TRAINING FUND.*—*Section 37(h)(3) of*  
 8           *the Office of Federal Procurement Policy Act (41 U.S.C.*  
 9           *433(h)(3)) is amended by striking subparagraph (H).*

10          (k) *TRAINING IN THE ACQUISITION OF ARCHITECT AND*  
 11          *ENGINEERING SERVICES.*—*The Administrator for Federal*  
 12          *Procurement Policy shall ensure that a sufficient number*  
 13          *of Federal employees are trained in the acquisition of archi-*  
 14          *tect and engineering services.*

15          (l) *EXTENSION OF DIRECT HIRING AUTHORITY.*—*Sec-*  
 16          *tion 1413(b) of the Services Acquisition Reform Act of 2003*  
 17          *(title XIV of Public Law 108–136) is amended by striking*  
 18          *“September 30, 2007” and inserting “September 30, 2010”.*

19          (m) *QUALIFICATIONS OF CHIEF ACQUISITION OFFI-*  
 20          *CERS.*—*Section 16(a) of the Office of Federal Procurement*  
 21          *Policy Act (41 U.S.C. 414) is amended by adding at the*  
 22          *end the following new paragraph:*

23           *“(2) Chief Acquisition Officers shall be appointed from*  
 24           *among persons who have an extensive management back-*  
 25           *ground.”.*



1       (n) *UTILIZATION OF RECRUITMENT AND RETENTION*  
 2 *AUTHORITIES.*—*The Administrator for Federal Procure-*  
 3 *ment Policy, in coordination with the Director of the Office*  
 4 *of Personnel Management, shall encourage agencies to uti-*  
 5 *lize existing authorities, including direct hire authority and*  
 6 *tuition assistance programs, to recruit and retain acquisi-*  
 7 *tion personnel and consider recruiting acquisition per-*  
 8 *sonnel who may be retiring from the private sector, con-*  
 9 *sistent with existing laws and regulations.*

## 10       ***TITLE II—COMPETITION AND*** 11       ***ACCOUNTABILITY***

### 12       ***SEC. 201. REQUIREMENT FOR PURCHASE OF PROPERTY*** 13       ***AND SERVICES PURSUANT TO MULTIPLE*** 14       ***AWARD CONTRACTS.***

15       (a) *REGULATIONS REQUIRED.*—*Not later than 180*  
 16 *days after the date of the enactment of this Act, the Admin-*  
 17 *istrator for Federal Procurement Policy shall promulgate*  
 18 *in the Federal Acquisition Regulation, regulations requir-*  
 19 *ing competition in the purchase of property and services*  
 20 *by all executive agencies pursuant to multiple award con-*  
 21 *tracts.*

22       (b) *CONTENT OF REGULATIONS.*—

23               (1) *IN GENERAL.*—*The regulations required by*  
 24       *subsection (a) shall provide, at a minimum, that each*  
 25       *individual purchase of property or services in excess*

1        *of the simplified acquisition threshold that is made*  
 2        *under a multiple award contract shall be made on a*  
 3        *competitive basis unless a contracting officer—*

4                *(A) waives the requirement on the basis of*  
 5                *a determination that—*

6                        *(i) one of the circumstances described*  
 7                        *in paragraphs (1) through (4) of section*  
 8                        *303J(b) of the Federal Property and Ad-*  
 9                        *ministrative Services Act of 1949 (41*  
 10                        *U.S.C. 253j(b)) or section 2304c(b) of title*  
 11                        *10, United States Code, applies to such in-*  
 12                        *dividual purchase; or*

13                        *(ii) a law expressly authorizes or re-*  
 14                        *quires that the purchase be made from a*  
 15                        *specified source; and*

16                *(B) justifies the determination in writing.*

17                *(2) COMPETITIVE BASIS PROCEDURES.—For pur-*  
 18                *poses of this subsection, an individual purchase of*  
 19                *property or services is made on a competitive basis*  
 20                *only if it is made pursuant to procedures that—*

21                        *(A) except as provided in paragraph (3), re-*  
 22                        *quire fair notice of the intent to make that pur-*  
 23                        *chase (including a description of the work to be*  
 24                        *performed and the basis on which the selection*  
 25                        *will be made) to be provided to all contractors*

1        *offering such property or services under the mul-*  
 2        *tiple award contract; and*

3                *(B) afford all contractors responding to the*  
 4        *notice a fair opportunity to make an offer and*  
 5        *have that offer fairly considered by the official*  
 6        *making the purchase.*

7        *(3) EXCEPTION TO NOTICE REQUIREMENT.—*

8                *(A) IN GENERAL.—Notwithstanding para-*  
 9        *graph (2)(A), and subject to subparagraph (B),*  
 10        *notice may be provided to fewer than all contrac-*  
 11        *tors offering such property or services under a*  
 12        *multiple award contract as described in sub-*  
 13        *section (d)(2)(A) if notice is provided to as*  
 14        *many contractors as practicable.*

15                *(B) LIMITATION ON EXCEPTION.—A pur-*  
 16        *chase may not be made pursuant to a notice that*  
 17        *is provided to fewer than all contractors under*  
 18        *subparagraph (A) unless—*

19                        *(i) offers were received from at least 3*  
 20                        *qualified contractors; or*

21                        *(ii) a contracting officer of the execu-*  
 22                        *tive agency determines in writing that no*  
 23                        *additional qualified contractors were able to*  
 24                        *be identified despite reasonable efforts to do*  
 25                        *so.*

1       (c) *NOTICE REQUIREMENTS RELATED TO SOLE*  
 2 *SOURCE TASK OR DELIVERY ORDERS.*—*The Administrator*  
 3 *for Federal Procurement Policy shall promulgate regula-*  
 4 *tions in the Federal Acquisition Regulation requiring the*  
 5 *head of each executive agency—*

6           (1) *to publish on FedBizOpps notice of all sole*  
 7 *source task or delivery orders in excess of the sim-*  
 8 *plified acquisition threshold (as defined by section 4*  
 9 *of the Office of Federal Procurement Policy Act (41*  
 10 *U.S.C. 403)) that are placed against multiple award*  
 11 *contracts or multiple award blanket purchase agree-*  
 12 *ments not later than 10 days after such orders are*  
 13 *placed, except in the event of extraordinary cir-*  
 14 *cumstances or classified orders; and*

15           (2) *to publish on the Internet website of the exec-*  
 16 *utive agency and on FedBizOpps the justification and*  
 17 *approval documents related to sole source task or de-*  
 18 *livery orders placed against multiple award contracts*  
 19 *or multiple award blanket purchase agreements not*  
 20 *later than 14 days after such orders are placed, except*  
 21 *in the event of extraordinary circumstances or classi-*  
 22 *fied orders.*

23       (d) *DEFINITIONS.*—*In this section:*

24           (1) *The term “individual purchase” means a*  
 25 *task order, delivery order, or other purchase.*

1           (2) The term “multiple award contract”  
2       *means—*

3               (A) a contract that is entered into by the  
4       Administrator of General Services under the  
5       multiple award schedule program referred to in  
6       section 2302(2)(C) of title 10, United States  
7       Code;

8               (B) a multiple award task order contract  
9       that is entered into under the authority of sec-  
10      tions 2304a through 2304d of title 10, United  
11      States Code, or sections 303H through 303K of  
12      the Federal Property and Administrative Serv-  
13      ices Act of 1949 (41 U.S.C. 253h through 253k);  
14      and

15              (C) any other indefinite delivery, indefinite  
16      quantity contract that is entered into by the  
17      head of an executive agency with 2 or more  
18      sources pursuant to the same solicitation.

19      (e) *APPLICABILITY.*—The regulations promulgated by  
20      the Administrator for Federal Procurement Policy pursu-  
21      ant to subsection (a) shall take effect not later than 180  
22      days after the date of the enactment of this Act and shall  
23      apply to all individual purchases of property or services  
24      that are made under multiple award contracts on or after  
25      such effective date, without regard to whether the multiple

1 *award contracts were entered into before, on, or after such*  
 2 *effective date.*

3 **SEC. 202. STATEMENT OF WORK REQUIREMENTS FOR CER-**  
 4 **TAIN TASK OR DELIVERY ORDERS.**

5 *(a) CIVILIAN CONTRACTS.—Section 303J(c) of the Fed-*  
 6 *eral Property and Administrative Services Act of 1949 (41*  
 7 *U.S.C. 253j(c)) is amended to read as follows:*

8 *“(c) STATEMENT OF WORK AND SELECTION BASIS.—*

9 *“(1) IN GENERAL.—A task or delivery order*  
 10 *shall include a statement of work that clearly specifies*  
 11 *all tasks to be performed or property to be delivered*  
 12 *under the order.*

13 *“(2) TASK OR DELIVERY ORDERS IN EXCESS OF*  
 14 *THE THRESHOLD FOR USE OF SIMPLIFIED PROCE-*  
 15 *DURES FOR COMMERCIAL ITEMS.—The statement of*  
 16 *work for a task or delivery order in excess of the*  
 17 *threshold for use of simplified procedures for commer-*  
 18 *cial items under a task or delivery order contract*  
 19 *shall be made available to each contractor awarded*  
 20 *such contract and shall—*

21 *“(A) include a clear statement of the execu-*  
 22 *tive agency’s requirements;*

23 *“(B) permit a reasonable response period;*

24 *“(C) disclose the significant factors and sub-*  
 25 *factors that the executive agency expects to con-*

1        *sider in evaluating proposals, including cost,*  
 2        *price, past performance, and the relative impor-*  
 3        *tance of those and other factors;*

4                *“(D) in the case of an award that is to be*  
 5        *made on a best value basis, include a written*  
 6        *statement documenting the basis for the award*  
 7        *and the relative importance of quality, past per-*  
 8        *formance, and price or cost factors; and*

9                *“(E) provide an opportunity for a post-*  
 10        *award debriefing consistent with the require-*  
 11        *ments of section 303B(e).”.*

12        *(b) DEFENSE CONTRACTS.—Section 2304c(c) of title*  
 13        *10, United States Code, is amended to read as follows:*

14        *“(c) STATEMENT OF WORK AND SELECTION BASIS.—*

15                *“(1) IN GENERAL.—A task or delivery order*  
 16        *shall include a statement of work that clearly specifies*  
 17        *all tasks to be performed or property to be delivered*  
 18        *under the order.*

19                *“(2) TASK OR DELIVERY ORDERS IN EXCESS OF*  
 20        *THE THRESHOLD FOR USE OF SIMPLIFIED PROCE-*  
 21        *DURES FOR COMMERCIAL ITEMS.—The statement of*  
 22        *work for a task or delivery order in excess of the*  
 23        *threshold for use of simplified procedures for commer-*  
 24        *cial items under a task or delivery order contract*

1       *shall be made available to each contractor awarded*  
 2       *such contract and shall—*

3               “(A) *include a clear statement of the agen-*  
 4               *cy’s requirements;*

5               “(B) *permit a reasonable response period;*

6               “(C) *disclose the significant factors and sub-*  
 7               *factors that the agency expects to consider in*  
 8               *evaluating proposals, including cost, price, past*  
 9               *performance, and the relative importance of*  
 10              *those and other factors;*

11              “(D) *in the case of an award that is to be*  
 12              *made on a best value basis, include a written*  
 13              *statement documenting the basis for the award*  
 14              *and the relative importance of quality, past per-*  
 15              *formance, and price or cost factors; and*

16              “(E) *provide an opportunity for a post-*  
 17              *award debriefing consistent with the require-*  
 18              *ments of section 2305(b)(5) of this title.”.*

19   **SEC. 203. PROTESTS OF TASK AND DELIVERY ORDERS.**

20       (a) *CIVILIAN AGENCY CONTRACTS.—Section 303J(d)*  
 21       *of the Federal Property and Administrative Services Act*  
 22       *of 1949 (41 U.S.C. 253j(d)) is amended to read as follows:*

23              “(d) *PROTESTS.—A protest is not authorized in con-*  
 24              *nection with the issuance or proposed issuance of a task*  
 25              *or delivery order except for—*



1           “(1) a protest on the ground that the order in-  
 2           creases the scope, period, or maximum value of the  
 3           contract under which the order is issued; or

4           “(2) a protest by an interested party of an order  
 5           valued at greater than the threshold established pursu-  
 6           ant to section 203(c) of the Accountability in Govern-  
 7           ment Contracting Act of 2007.”.

8           (b) *DEFENSE CONTRACTS*.—Section 2304c(d) of title  
 9   10, United States Code is amended to read as follows:

10          “(d) *PROTESTS*.—A protest is not authorized in con-  
 11       nection with the issuance or proposed issuance of a task  
 12       or delivery order except for—

13           “(1) a protest on the ground that the order in-  
 14           creases the scope, period, or maximum value of the  
 15           contract under which the order is issued; or

16           “(2) a protest by an interested party of an order  
 17           valued at greater than the threshold established pursu-  
 18           ant to section 203(c) of the Accountability in Govern-  
 19           ment Contracting Act of 2007.”.

20          (c) *ESTABLISHMENT OF THRESHOLD*.—The Adminis-  
 21       trator for Federal Procurement Policy shall promulgate a  
 22       rule in the Federal Acquisition Regulation establishing a  
 23       threshold for protests under section 303J(d) of the Federal  
 24       Property and Administrative Services Act of 1949 (41  
 25       U.S.C. 253j(d)) and section 2304c(d) of title 10, United

1 *States Code, as amended by subsections (a) and (b), respec-*  
 2 *tively. The threshold shall be \$5,000,000 unless the Admin-*  
 3 *istrator determines that the threshold is unduly burdensome*  
 4 *on executive agencies, in which case the Administrator may*  
 5 *increase the threshold, but in no case shall the threshold ex-*  
 6 *ceed \$25,000,000. The threshold shall be \$5,000,000 until*  
 7 *a final rule is promulgated in accordance with such deter-*  
 8 *mination.*

9 **SEC. 204. PUBLICATION OF JUSTIFICATION AND APPROVAL**  
 10 **DOCUMENTS.**

11 (a) *CIVILIAN CONTRACTS.*—Section 303(f)(1) of the  
 12 *Federal Property and Administrative Services Act of 1949*  
 13 *(41 U.S.C. 253(f)(1)) is amended—*

14 (1) *in subparagraph (B)(iii), by striking “; and”*  
 15 *and inserting a semicolon;*

16 (2) *in subparagraph (C), by striking the period*  
 17 *at the end and inserting “; and”; and*

18 (3) *by adding at the end the following new sub-*  
 19 *paragraph:*

20 “(D) *the justification and approval documents*  
 21 *are made publicly available on the Internet website of*  
 22 *the agency and FedBizOpps.”.*

23 (b) *DEFENSE CONTRACTS.*—Section 2304(f) of title 10,  
 24 *United States Code, is amended—*

1           (1) in subparagraph (B)(iii), by striking “; and”  
2           and inserting a semicolon;

3           (2) in subparagraph (C), by striking the period  
4           at the end and inserting “; and”; and

5           (3) by adding at the end the following new sub-  
6           paragraph:

7           “(D) the justification and approval documents  
8           are made publicly available on the Internet website of  
9           the agency and FedBizOpps.”.

10 **SEC. 205. LIMITATION ON LENGTH OF CERTAIN NON-**  
11 **COMPETITIVE CONTRACTS.**

12           (a) *CIVILIAN AGENCY CONTRACTS*.—Section 303(d) of  
13 the Federal Property and Administrative Services Act of  
14 1949 (41 U.S.C. 253(d)) is amended by adding at the end  
15 the following new paragraph:

16           “(3)(A) The contract period of a contract described in  
17 subparagraph (B) that is entered into by an executive agen-  
18 cy pursuant to the authority provided under subsection  
19 (c)(2)—

20           “(i) may not exceed the time necessary—

21           “(I) to meet the unusual and compelling re-  
22 quirements of the work to be performed under the  
23 contract; and

24           “(II) for the executive agency to enter into  
25 another contract for the required goods or serv-

1           ices through the use of competitive procedures;  
2           and

3           “(i) may not exceed 270 days unless the head of  
4           the executive agency entering into such contract deter-  
5           mines that exceptional circumstances apply.

6           “(B) This paragraph applies to any contract in an  
7           amount greater than the simplified acquisition threshold  
8           (as defined by section 4 of the Office of Federal Procurement  
9           Policy Act (41 U.S.C. 403)).”.

10          (b) *DEFENSE CONTRACTS*.—Section 2304(d) of title  
11   10, United States Code, is amended by adding at the end  
12   the following new paragraph:

13          “(3)(A) The contract period of a contract described in  
14   subparagraph (B) that is entered into by an agency pursu-  
15   ant to the authority provided under subsection (c)(2)—

16          “(i) may not exceed the time necessary—

17                  “(I) to meet the unusual and compelling re-  
18                  quirements of the work to be performed under the  
19                  contract; and

20                  “(II) for the agency to enter into another  
21                  contract for the required goods or services  
22                  through the use of competitive procedures; and

23          “(ii) may not exceed 270 days unless the head of  
24          the agency entering into such contract determines that  
25          exceptional circumstances apply.

1       “(B) *This paragraph applies to any contract in an*  
 2 *amount greater than the simplified acquisition threshold*  
 3 *(as defined by section 4 of the Office of Federal Procurement*  
 4 *Policy Act (41 U.S.C. 403)).”.*

5       **SEC. 206. PROHIBITION ON AWARD OF CERTAIN LARGE**  
 6                       **TASK OR DELIVERY ORDER CONTRACTS FOR**  
 7                       **SERVICES.**

8       (a) *CIVILIAN AGENCY CONTRACTS.—Section 303H(d)*  
 9 *of the Federal Property and Administrative Services Act*  
 10 *of 1949 (41 U.S.C. 253h(d)) is amended by adding at the*  
 11 *end the following new paragraph:*

12       “(4)(A) *No task or delivery order contract for services*  
 13 *in an amount estimated to exceed \$100,000,000 (including*  
 14 *all options) may be awarded to a single contractor unless*  
 15 *the head of the executive agency determines in writing*  
 16 *that—*

17               “(i) *because of the size, scope, or method of per-*  
 18 *formance of the requirement, it would not be practical*  
 19 *to award multiple task or delivery order contracts;*

20               “(ii) *the task orders expected under the contract*  
 21 *are so integrally related that only a single contractor*  
 22 *can reasonably perform the work; or*

23               “(iii) *for any other reason, it is necessary in the*  
 24 *public interest to award the contract to a single con-*  
 25 *tractor.*

1       “(B) *The head of the executive agency shall notify Con-*  
 2 *gress within 30 days of any determination under subpara-*  
 3 *graph (A)(iii).*

4       “(C) *The head of the executive agency shall post the*  
 5 *justification and approval documents related to a deter-*  
 6 *mination under subparagraph (A) on the Internet website*  
 7 *of the agency and on the Federal Business Opportunities*  
 8 *(FedBizOpps) Internet website.”.*

9       (b) *DEFENSE CONTRACTS.*—Section 2304a(d) of title  
 10 10, United States Code, is amended by adding at the end  
 11 the following new paragraph:

12       “(4)(A) *No task or delivery order contract for services*  
 13 *in an amount estimated to exceed \$100,000,000 (including*  
 14 *all options) may be awarded to a single contractor unless*  
 15 *the head of the agency determines in writing that—*

16               “(i) *because of the size, scope, or method of per-*  
 17 *formance of the requirement, it would not be practical*  
 18 *to award multiple task or delivery order contracts;*

19               “(ii) *the task orders expected under the contract*  
 20 *are so integrally related that only a single contractor*  
 21 *can reasonably perform the work; or*

22               “(iii) *for any other reason, it is necessary in the*  
 23 *public interest to award the contract to a single con-*  
 24 *tractor.*

1       “(B) *The head of the agency shall notify Congress*  
 2 *within 30 days of any determination under subparagraph*  
 3 *(A)(iii).*

4       “(C) *The head of the agency shall post the justification*  
 5 *and approval documents related to a determination under*  
 6 *subparagraph (A) on the Internet website of the agency and*  
 7 *on the Federal Business Opportunities (FedBizOpps) Inter-*  
 8 *net website.”.*

9       **SEC. 207. GUIDANCE ON USE OF TIERED EVALUATIONS OF**  
 10                               **OFFERS FOR CONTRACTS AND TASK ORDERS**  
 11                               **UNDER CONTRACTS.**

12       (a) *GUIDANCE REQUIRED.—The Administrator for*  
 13 *Federal Procurement Policy shall prescribe guidance for ex-*  
 14 *ecutive agencies on the use of tiered evaluations of offers*  
 15 *for contracts and for task or delivery orders under contracts.*  
 16 *In prescribing such guidance, the Administrator shall give*  
 17 *full consideration to the guidance prescribed by the Sec-*  
 18 *retary of Defense under section 816 of the National Defense*  
 19 *Authorization Act for Fiscal Year 2006 (Public Law 109–*  
 20 *163; 10 U.S.C. 2305).*

21       (b) *ELEMENTS.—The guidance prescribed under sub-*  
 22 *section (a) shall include a prohibition on the initiation by*  
 23 *a contracting officer of a tiered evaluation of an offer for*  
 24 *a contract or for a task or delivery order under a contract*  
 25 *unless the contracting officer—*

1           (1) *has conducted market research in accordance*  
 2           *with part 10 of the Federal Acquisition Regulation in*  
 3           *order to determine whether or not a sufficient number*  
 4           *of qualified small businesses are available to justify*  
 5           *limiting competition for the award of such contract or*  
 6           *task or delivery order under applicable law and regu-*  
 7           *lations;*

8           (2) *is unable, after conducting market research*  
 9           *under paragraph (1), to make the determination de-*  
 10          *scribed in that paragraph; and*

11          (3) *includes in the contract file a written expla-*  
 12          *nation of why such contracting officer was unable to*  
 13          *make such determination.*

14 **SEC. 208. GUIDANCE ON USE OF COST-REIMBURSEMENT**  
 15                 **CONTRACTS.**

16          (a) *IN GENERAL.*—*Not later than 180 days after the*  
 17          *date of the enactment of this Act, the Administrator for Fed-*  
 18          *eral Procurement Policy shall promulgate in the Federal*  
 19          *Acquisition Regulation, regulations outlining the proper*  
 20          *use of cost-reimbursement contracts.*

21          (b) *CONTENT.*—*The regulations promulgated under*  
 22          *subsection (a) shall include at minimum guidance regard-*  
 23          *ing—*

24                 (1) *when and under what circumstances cost re-*  
 25                 *imbursement contracts are appropriate;*



1           (2) *the acquisition plan findings necessary to*  
 2           *support a decision to use cost reimbursement con-*  
 3           *tracts; and*

4           (3) *the acquisition workforce resources necessary*  
 5           *to award and manage cost reimbursement contracts.*

6           (c) *INSPECTOR GENERAL REVIEW.—The Inspector*  
 7           *General for each executive agency shall develop and submit*  
 8           *as part of its annual audit plan a review of the use of cost*  
 9           *reimbursement contracts.*

10   **SEC. 209. PREVENTING CONFLICTS OF INTEREST.**

11           (a) *ORGANIZATIONAL CONFLICTS OF INTEREST.—The*  
 12           *Administrator for Federal Procurement Policy shall create*  
 13           *new, uniform, government-wide policies aimed at pre-*  
 14           *venting and mitigating organizational conflicts of interest*  
 15           *in Federal contracting, including—*

16           (1) *considering development of a standard orga-*  
 17           *nizational conflict of interest clause, or a set of stand-*  
 18           *ard organizational conflict of interest clauses, for in-*  
 19           *clusion in solicitations and contracts that set forth the*  
 20           *contractor’s responsibilities with respect to its em-*  
 21           *ployees, subcontractors, partners, and any other affili-*  
 22           *ated organizations or individuals;*

23           (2) *addressing conflicts that may arise in the*  
 24           *context of developing requirements and statements of*

1        *work, the selection process, and contract administra-*  
 2        *tion;*

3            (3) *ensuring that adequate organizational con-*  
 4        *flict of interest safeguards are enacted in situations in*  
 5        *which contractors are employed by the Federal Gov-*  
 6        *ernment to oversee other contractors or are hired to*  
 7        *assist in the acquisition process;*

8            (4) *ensuring that any policies or clauses devel-*  
 9        *oped address conflicts of interest that may arise from*  
 10       *financial interests, unfair competitive advantages,*  
 11       *and impaired objectivity; and*

12           (5) *maintaining a repository of best practices re-*  
 13        *lating to the prevention of organizational conflicts of*  
 14        *interest.*

15        (b) *PERSONAL CONFLICTS OF INTEREST.—The Ad-*  
 16        *ministrator for Federal Procurement Policy shall create*  
 17        *new, uniform, government-wide policies aimed at pre-*  
 18        *venting personal conflicts of interest by contractor employ-*  
 19        *ees in Federal contracting, including—*

20           (1) *determining whether greater disclosure, spe-*  
 21        *cific prohibitions, or reliance on specified principles*  
 22        *will accomplish the end objective of ethical behavior;*

23           (2) *identifying types of contracts that raise*  
 24        *heightened concerns for potential conflicts of interest;*

1           (3) *considering the development of a standard*  
 2           *ethics clause or a set of standard ethics clauses that*  
 3           *set forth the contractor's responsibility for inclusion*  
 4           *in solicitations and contracts; and*

5           (4) *maintaining a repository of best practices re-*  
 6           *lating to the prevention of personal conflicts of inter-*  
 7           *est.*

8           (c) *REPORT.*—*Not later than 180 days after the date*  
 9           *of the enactment of this Act, the Administrator for Federal*  
 10          *Procurement Policy shall submit to the Committee on*  
 11          *Homeland Security and Governmental Affairs of the Senate*  
 12          *and the Committee on Oversight and Government Reform*  
 13          *of the House of Representatives a report on actions taken*  
 14          *under this section.*

15   **SEC. 210. LINKING OF AWARD AND INCENTIVE FEES TO AC-**  
 16                           **QUISITION OUTCOMES.**

17          (a) *GUIDANCE ON LINKING OF AWARD AND INCENTIVE*  
 18          *FEES TO ACQUISITION OUTCOMES.*—*Not later than 180*  
 19          *days after the date of the enactment of this Act, the Admin-*  
 20          *istrator for Federal Procurement Policy shall issue guid-*  
 21          *ance, with detailed implementation instructions (including*  
 22          *definitions), for executive agencies on the appropriate use*  
 23          *of award and incentive fees in Federal acquisition pro-*  
 24          *grams.*

1       (b) *ELEMENTS.*—*The guidance under subsection (a)*  
 2 *shall—*

3           (1) *ensure that all new contracts using award*  
 4 *fees link such fees to acquisition outcomes (which shall*  
 5 *be defined in terms of program cost, schedule, and*  
 6 *performance);*

7           (2) *establish standards for identifying the appro-*  
 8 *priate level of officials authorized to approve the use*  
 9 *of award and incentive fees in new contracts;*

10          (3) *provide guidance on the circumstances in*  
 11 *which contractor performance may be judged to be*  
 12 *“excellent” or “superior” and the percentage of the*  
 13 *available award fee which contractors should be paid*  
 14 *for such performance;*

15          (4) *establish standards for determining the per-*  
 16 *centage of the available award fee, if any, which con-*  
 17 *tractors should be paid for performance that is judged*  
 18 *to be “acceptable”, “average”, “expected”, “good”, or*  
 19 *“satisfactory”;*

20          (5) *ensure that no award fee may be paid for*  
 21 *contractor performance that is judged to be below sat-*  
 22 *isfactory performance or performance that does not*  
 23 *meet the basic requirements of the contract;*

24          (6) *provide specific direction on the cir-*  
 25 *cumstances, if any, in which it may be appropriate*

1       to roll over award fees that are not earned in one  
 2       award fee period to a subsequent award fee period or  
 3       periods;

4               (7) ensure consistent use of guidelines and defi-  
 5       nitions relating to award and incentive fees across the  
 6       Federal Government;

7               (8) ensure that each executive agency—

8                       (A) collects relevant data on award and in-  
 9       centive fees paid to contractors; and

10                      (B) has mechanisms in place to evaluate  
 11       such data on a regular basis;

12               (9) include performance measures to evaluate the  
 13       effectiveness of award and incentive fees as a tool for  
 14       improving contractor performance and achieving de-  
 15       sired program outcomes; and

16               (10) provide mechanisms for sharing proven in-  
 17       centive strategies for the acquisition of different types  
 18       of products and services among contracting and pro-  
 19       gram management officials.

## 20       **TITLE III—ACCOUNTABILITY** 21       **AND ADMINISTRATION**

### 22       **SEC. 301. RECORDING OF OBLIGATIONS ON TASK ORDER** 23       **CONTRACTS.**

24       (a) *CIVILIAN CONTRACTS.*—

1           (1) *IN GENERAL.*—Section 303H of the Federal  
 2           Property and Administrative Services Act of 1949 (41  
 3           U.S.C. 253h) is amended—

4                     (A) by redesignating subsections (f) and (g)  
 5                     as subsections (g) and (h), respectively; and

6                     (B) by inserting after subsection (e) the fol-  
 7                     lowing new subsection:

8           “(f) *AUTHORITY TO DEFER RECORDING OBLIGATIONS*  
 9           ON TASK OR DELIVERY ORDER CONTRACTS.—(1) Subject  
 10           to paragraphs (2) and (3), the head of an executive agency  
 11           may defer the recording of an obligation, including an obli-  
 12           gation in the amount of the guaranteed minimum, under  
 13           a contract awarded under this section until the issuance  
 14           of a task or delivery order.

15           “(2) The amount of the guaranteed minimum under  
 16           a contract must be obligated during the same fiscal year  
 17           during which the contract is awarded unless waived by the  
 18           head of the executive agency for exceptional circumstances.

19           “(3) The amount of the guaranteed minimum under  
 20           a contract may be satisfied by multiple task or delivery or-  
 21           ders, but the full value of each individual task or delivery  
 22           order must be obligated when such order is issued.”.

23           (2) *ADVISORY AND ASSISTANCE SERVICES.*—Sec-  
 24           tion 303I of such Act (41 U.S.C. 253i) is amended—

1                   (A) by redesignating subsections (h) and (i)  
2                   as subsections (i) and (j), respectively; and

3                   (B) by inserting after subsection (g) the fol-  
4                   lowing new subsection:

5           “(h) *AUTHORITY TO DEFER RECORDING OBLIGATIONS*  
6 *ON TASK OR DELIVERY ORDER CONTRACTS.*—(1) *Subject*  
7 *to paragraphs (2) and (3), the head of an executive agency*  
8 *may defer the recording of an obligation, including an obli-*  
9 *gation in the amount of the guaranteed minimum, under*  
10 *a contract awarded under this section until the issuance*  
11 *of a task or delivery order.*

12           “(2) *The amount of the guaranteed minimum under*  
13 *a contract must be obligated during the same fiscal year*  
14 *during which the contract is awarded unless waived by the*  
15 *head of the executive agency for exceptional circumstances.*

16           “(3) *The amount of the guaranteed minimum under*  
17 *a contract may be satisfied by multiple task or delivery or-*  
18 *ders, but the full value of each individual task or delivery*  
19 *order must be obligated when such order is issued.”.*

20           (b) *DEFENSE CONTRACTS.*—

21           (1) *IN GENERAL.*—Section 2304a of title 10,  
22 *United States Code, is amended—*

23                   (A) by redesignating subsections (g) and (h)  
24                   as subsections (h) and (i), respectively; and

1                   (B) by inserting after subsection (f) the fol-  
 2                   lowing new subsection:

3           “(g) *AUTHORITY TO DEFER RECORDING OBLIGATIONS*  
 4 *ON TASK OR DELIVERY ORDER CONTRACTS.*—(1) *Subject*  
 5 *to paragraphs (2) and (3), the head of an agency may defer*  
 6 *the recording of an obligation, including an obligation in*  
 7 *the amount of the guaranteed minimum, under a contract*  
 8 *awarded under this section until the issuance of a task or*  
 9 *delivery order.*

10           “(2) *The amount of the guaranteed minimum under*  
 11 *a contract must be obligated during the same fiscal year*  
 12 *during which the contract is awarded unless waived by the*  
 13 *head of the agency for exceptional circumstances.*

14           “(3) *The amount of the guaranteed minimum under*  
 15 *a contract may be satisfied by multiple task or delivery or-*  
 16 *ders, but the full value of each individual task or delivery*  
 17 *order must be obligated when such order is issued.”.*

18                   (2) *ADVISORY AND ASSISTANCE SERVICES.*—*Sec-*  
 19 *tion 2304b of title 10, United States Code, is amend-*  
 20 *ed—*

21                   (A) by redesignating subsection (f) as sub-  
 22                   sections (g); and

23                   (B) by inserting after subsection (e) the fol-  
 24                   lowing new subsection:



1       “(f) *AUTHORITY TO DEFER RECORDING OBLIGATIONS*  
 2 *ON TASK OR DELIVERY ORDER CONTRACTS.*—(1) *Subject*  
 3 *to paragraphs (2) and (3), the head of an agency may defer*  
 4 *the recording of an obligation, including an obligation in*  
 5 *the amount of the guaranteed minimum, under a contract*  
 6 *awarded under this section until the issuance of a task or*  
 7 *delivery order.*

8       “(2) *The amount of the guaranteed minimum under*  
 9 *a contract must be obligated during the same fiscal year*  
 10 *during which the contract is awarded unless waived by the*  
 11 *head of the agency for exceptional circumstances.*

12       “(3) *The amount of the guaranteed minimum under*  
 13 *a contract may be satisfied by multiple task or delivery or-*  
 14 *ders, but the full value of each individual task or delivery*  
 15 *order must be obligated when such order is issued.”.*

16 **SEC. 302. DEFINITIZING OF LETTER CONTRACTS.**

17       (a) *CIVILIAN CONTRACTS.*—*The Federal Property and*  
 18 *Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)*  
 19 *is amended by adding at the end the following new section:*

20 **“SEC. 318. DEFINITIZING OF LETTER CONTRACTS.**

21       *“The head of an executive agency shall unilaterally de-*  
 22 *termine all missing terms in an undefinitized letter con-*  
 23 *tract that have not been agreed upon within 180 days after*  
 24 *such letter contract has been entered into or before 40 per-*  
 25 *cent of the work under such letter contract has been com-*

1 *pleted. Any terms so determined shall be subject to the con-*  
 2 *tract disputes process.”.*

3 *(b) DEFENSE CONTRACTS.—*

4 *(1) DEFINITIZING OF LETTER CONTRACTS.—*

5 *Chapter 137 of title 10, United States Code, is*  
 6 *amended by inserting after at the end the following*  
 7 *new section:*

8 **“§ 2334. Definitizing of letter contracts**

9 *“The head of an agency shall unilaterally determine*  
 10 *all missing terms in an undefinitized letter contract that*  
 11 *have not been agreed upon within 180 days after such letter*  
 12 *contract has been entered into or before the funds obligated*  
 13 *under such letter contract exceed 50 percent of the not-to-*  
 14 *exceed cost of the contract. Any terms so determined shall*  
 15 *be subject to the contract disputes process.”.*

16 *(2) CLERICAL AMENDMENT.—The table of sec-*  
 17 *tions at the beginning of such chapter is amended by*  
 18 *adding at the end the following new item:*

*“2334. Definitizing of letter contracts.”.*

19 **SEC. 303. PREVENTING ABUSE OF INTERAGENCY CON-**  
 20 **TRACTS AND ASSISTED ACQUISITION SERV-**  
 21 **ICES.**

22 *(a) OFFICE OF MANAGEMENT AND BUDGET POLICY*  
 23 *GUIDANCE.—*

24 *(1) REPORT AND GUIDELINES.—Not later than*  
 25 *one year after the date of the enactment of this Act,*

1       *the Director of the Office of Management and Budget*  
2       *shall—*

3               *(A) submit to Congress a comprehensive re-*  
4               *port on interagency acquisitions, including their*  
5               *frequency of use, management controls, cost-effec-*  
6               *tiveness, and savings generated; and*

7               *(B) issue guidelines to assist the heads of*  
8               *executive agencies in improving the management*  
9               *of interagency acquisitions.*

10       *(2) MATTERS COVERED BY GUIDELINES.—For*  
11       *purposes of paragraph (1)(B), the Director shall in-*  
12       *clude guidelines on the following matters:*

13               *(A) Procedures for the use of interagency*  
14               *acquisitions to maximize competition, deliver*  
15               *best value to executive agencies, and minimize*  
16               *waste, fraud, and abuse.*

17               *(B) Categories of contracting inappropriate*  
18               *for interagency acquisition, due to high risk of*  
19               *waste, fraud, or abuse.*

20               *(C) Requirements for training acquisition*  
21               *workforce personnel in the proper use of inter-*  
22               *agency acquisitions.*

23       *(b) REGULATIONS REQUIRED.—Not later than one*  
24       *year after the date of the enactment of this Act, the Federal*

1 *Acquisition Regulation shall be revised to require that all*  
 2 *assisted acquisitions—*

3           (1) *include a written agreement between the re-*  
 4 *questing agency and the servicing agency assigning*  
 5 *responsibility for the administration and manage-*  
 6 *ment of the contract;*

7           (2) *include a determination that an assisted ac-*  
 8 *quisition is the best procurement alternative; and*

9           (3) *include sufficient documentation to ensure an*  
 10 *adequate audit.*

11       (c) *AGENCY REPORTING REQUIREMENT.—The senior*  
 12 *procurement executive for each executive agency shall, as*  
 13 *directed by the Director of the Office of Management and*  
 14 *Budget, submit to the Director annual reports on the ac-*  
 15 *tions taken by the executive agency pursuant to the guide-*  
 16 *lines issued under subsection (a).*

17       (d) *REPORT ON INTERAGENCY CONTRACTING.—*

18           (1) *IN GENERAL.—Not later than 90 days after*  
 19 *the date of the enactment of this Act, the Adminis-*  
 20 *trator for Federal Procurement Policy shall report on*  
 21 *a survey of existing interagency contracts.*

22           (2) *CONTENT.—The report under paragraph (1)*  
 23 *shall include the following information:*

24               (A) *The number of interagency contracts*  
 25 *that are currently in operation, and the scope,*

1        *sponsoring agencies, primary users, activity lev-*  
2        *els (in terms of orders and value) for the most*  
3        *recent fiscal year, and rationales for such con-*  
4        *tracts.*

5                *(B) The level of acquisition activity con-*  
6        *ducted by the Intergovernmental Revolving*  
7        *Funds (including the Franchise Funds) on behalf*  
8        *of other executive agencies.*

9                *(C) The number of enterprisewide, single*  
10       *agency contracts that are currently in operation,*  
11       *and the scope, activity levels (in terms of orders*  
12       *and value) for the most recent fiscal year, and*  
13       *rationales for such contracts.*

14                *(3) PUBLICATION.—The Director of the Office of*  
15       *Management and Budget shall make the report under*  
16       *this subsection publicly available, subject to applica-*  
17       *ble statutory and regulatory limits on the release of*  
18       *such information.*

19                *(e) REVIEW OF FEDERAL SUPPLY SCHEDULE CON-*  
20       *TRACTS.—Not later than 270 days after the date of the en-*  
21       *actment of this Act, the Administrator of General Services*  
22       *shall review existing Federal Supply Schedule (FSS) con-*  
23       *tracts to determine whether, in light of the entire inventory*  
24       *of interagency contracts, any of the FSS contracts should*  
25       *be eliminated in order to avoid unnecessary duplication.*

1       (f) *REVIEW AND AUTHORIZATION OF MULTI-AGENCY*  
2 *CONTRACTS.*—

3           (1) *REGULATIONS REQUIRED.*—Not later than  
4       180 days after the date of the enactment of this Act,  
5       the Administrator for Federal Procurement Policy  
6       shall publish in the Federal Acquisition Regulation,  
7       regulations requiring that the acquisition plan in  
8       support of multi-agency contracts shall include a  
9       business case analysis justifying the award and ad-  
10      ministration of the contract. At a minimum, the busi-  
11      ness case shall include the fully burdened cost to the  
12      Federal Government of awarding and administering  
13      the contract and the impact the contract will have on  
14      the ability of the Federal Government to leverage its  
15      buying power.

16          (2) *REVIEW.*—Not later than 270 days after the  
17      date of enactment of this Act, the Administrator for  
18      Federal Procurement Policy, in consultation with the  
19      Administrator of General Services, shall review all  
20      multi-agency contracts and determine whether each  
21      contract is cost effective or redundant with existing  
22      contracts available for multi-agency use.

23          (3) *APPROVAL REQUIRED.*—No executive agency  
24      may exercise an option on an existing multi-agency  
25      contract or award a new multi-agency contract with-

1        *out the express written approval of the Administrator*  
 2        *for Federal Procurement Policy.*

3            (4) *EVALUATION OF COSTS.—In determining*  
 4        *whether a contract is cost effective, the Administrator*  
 5        *shall evaluate the fully burdened costs associated with*  
 6        *awarding and maintaining the contract. In the event*  
 7        *that the fully burdened costs cannot be determined,*  
 8        *the Administrator shall use the same formula for de-*  
 9        *termining agency performance of a function identified*  
 10       *in OMB Circular A-76.*

11        (g) *REVIEW OF OTHER INDEFINITE DELIVERY, IN-*  
 12       *DEFINITE QUANTITY CONTRACTS.—*

13            (1) *REVIEW.—Not later than 270 days after the*  
 14        *date of the enactment of this Act, the head of each ex-*  
 15        *ecutive agency, in consultation with the Adminis-*  
 16        *trator for Federal Procurement Policy, shall review*  
 17        *all indefinite delivery, indefinite quantity contracts*  
 18        *awarded by the executive agency and determine*  
 19        *whether those contracts are cost effective or redundant*  
 20        *with other contracts within the agency or available*  
 21        *for the agency's use.*

22            (2) *EVALUATION OF COSTS.—In determining*  
 23        *whether a contract is cost effective, the head of the ex-*  
 24        *ecutive agency shall evaluate the fully burdened costs*  
 25        *associated with awarding and maintaining the con-*

1        *tract. In cases where the fully burdened costs cannot*  
 2        *be determined, the Administrator shall use the same*  
 3        *formula for determining Agency performance of a*  
 4        *function identified in Office of Management and*  
 5        *Budget Circular A-76.*

6        *(h) IMPROVED TRANSPARENCY OF INTERAGENCY CON-*  
 7        *TRACTING DATA.—Not later than 180 days after the date*  
 8        *of the enactment of this Act, the Director of the Office of*  
 9        *Management and Budget shall direct appropriate revisions*  
 10       *to the government-wide procurement system known as the*  
 11       *Federal Procurement Data System-Next Generation in*  
 12       *order to facilitate the collecting and publication of complete*  
 13       *and reliable order-level data on interagency contracting*  
 14       *transactions.*

15       *(i) EXECUTIVE AGENCY DEFINED.—In this section, the*  
 16       *term “executive agency” includes the Department of De-*  
 17       *fense, but does not include the military departments and*  
 18       *defense agencies.*

19       **SEC. 304. PURCHASE CARD WASTE ELIMINATION.**

20       *(a) REQUIREMENT FOR GUIDANCE.—*

21                *(1) OFFICE OF MANAGEMENT AND BUDGET POL-*  
 22        *ICY GUIDANCE.—Not later than 180 days after the*  
 23        *date of the enactment of this Act, the Director of the*  
 24        *Office of Management and Budget shall issue guide-*  
 25        *lines to assist the heads of executive agencies in im-*



1     *proving the management of the use of the Govern-*  
2     *mentwide commercial purchase card for making*  
3     *micro-purchases. The Director shall include guidelines*  
4     *on the following matters:*

5             *(A) Analysis of purchase card expenditures*  
6             *to identify opportunities for achieving savings*  
7             *through micro-purchases made in economical*  
8             *volumes.*

9             *(B) Negotiation of discount agreements with*  
10            *major vendors accepting the purchase card.*

11            *(C) Establishment of communication pro-*  
12            *grams to ensure that purchase cardholders re-*  
13            *ceive information pertaining to the availability*  
14            *of discounts, including programs for the training*  
15            *of purchase cardholders on the availability of*  
16            *discounts.*

17            *(D) Assessment of cardholder purchasing*  
18            *practices, including use of discount agreements.*

19            *(E) Collection and dissemination of best*  
20            *practices and successful strategies for achieving*  
21            *savings in micro-purchases.*

22            *(F) Analysis of purchase card expenditures*  
23            *to identify opportunities for achieving and accu-*  
24            *rately measuring fair participation of small*  
25            *business concerns in micro-purchases consistent*

1       *with the national policy on small business par-*  
 2       *ticipation in Federal procurement set forth in*  
 3       *sections 2(a) and 15(g) of the Small Business*  
 4       *Act (15 U.S.C. 631(a) and 644(g)), and dissemi-*  
 5       *nation of best practices for participation of*  
 6       *small business concerns in micro-purchases.*

7       (2) *GENERAL SERVICES ADMINISTRATION.—The*  
 8       *Administrator of General Services shall—*

9               *(A) continue efforts to improve reporting by*  
 10       *financial institutions that issue the Government-*  
 11       *wide commercial purchase card so that the Gen-*  
 12       *eral Services Administration has the data needed*  
 13       *to identify opportunities for achieving savings;*  
 14       *and*

15              *(B) actively pursue point-of-sale discounts*  
 16       *with major vendors accepting the purchase card*  
 17       *so that any Federal Government purchaser using*  
 18       *the purchase card can benefit from such point-*  
 19       *of-sale discounts.*

20       (3) *AGENCY REPORTING REQUIREMENT.—The*  
 21       *senior procurement executive for each executive agen-*  
 22       *cy shall, as directed by the Director of the Office of*  
 23       *Management and Budget, submit to the Director peri-*  
 24       *odic reports on the actions taken in such executive*

1       agency pursuant to the guidelines issued under para-  
2       graph (1).

3           (4) CONGRESSIONAL OVERSIGHT.—Not later  
4       than December 31 of the year following the year in  
5       which this Act is enacted, and December 31 of each  
6       of the ensuing 3 years, the Director of the Office of  
7       Management and Budget shall submit to the Com-  
8       mittee on Homeland Security and Governmental Af-  
9       fairs of the Senate and the Committee on Oversight  
10      and Government Reform of the House of Representa-  
11      tives a report summarizing for the fiscal year ending  
12      in the year in which such report is due the progress  
13      made—

14           (A) in improving the management of the  
15           use of the Governmentwide commercial purchase  
16           card for making micro-purchases; and

17           (B) in achieving savings in micro-purchases  
18           made with such card, expressed in terms of aver-  
19           age savings achieved by each executive agency in  
20           the use of discount agreements identified in  
21           paragraph (1) and the total savings achieved  
22           Governmentwide.

23           (b) PAYMENTS TO FEDERAL CONTRACTORS WITH FED-  
24      ERAL TAX DEBT.—The General Services Administration,  
25      in conjunction with the Internal Revenue Service and the

1 *Financial Management Service, shall develop procedures to*  
 2 *subject purchase card payments to Federal contractors to*  
 3 *the Federal Payment Levy program.*

4 *(c) REPORTING OF AIR TRAVEL BY FEDERAL GOVERN-*  
 5 *MENT EMPLOYEES.—*

6 *(1) ANNUAL REPORTS REQUIRED.—The Admin-*  
 7 *istrator of the General Services shall submit annually*  
 8 *to the Committee on Homeland Security and Govern-*  
 9 *mental Affairs of the Senate and the Committee on*  
 10 *Oversight and Government Reform of the House of*  
 11 *Representatives a report on all first class and busi-*  
 12 *ness class travel by employees of each executive agency*  
 13 *undertaken at the expense of the Federal Government.*

14 *(2) CONTENT.—The reports submitted pursuant*  
 15 *to paragraph (1) shall include, at a minimum, with*  
 16 *respect to each travel by first class or business class—*

17 *(A) the names of each traveler;*

18 *(B) the date of travel;*

19 *(C) the points of origination and destina-*  
 20 *tion;*

21 *(D) the cost of the first class or business*  
 22 *class travel; and*

23 *(E) the cost difference between such travel*  
 24 *and travel by coach class.*

1 **SEC. 305. LEAD SYSTEMS INTEGRATORS.**

2       (a) *STUDY*.—Not later than 180 days after the date  
3 of the enactment of this Act, the Administrator for Federal  
4 Procurement Policy shall develop a government-wide defini-  
5 tion of lead systems integrators and complete a study on  
6 the use of such integrators by executive agencies.

7       (b) *GUIDANCE*.—Not later than 180 days after the  
8 study under subsection (a) is completed, the Administrator  
9 for Federal Procurement Policy shall issue guidance on the  
10 appropriate use of lead system integrators to ensure that  
11 they are used in the best interests of the Federal Govern-  
12 ment.

13 **SEC. 306. LIMITATIONS ON TIERING OF SUBCONTRACTORS.**

14       (a) *REGULATIONS*.—The Administrator for Federal  
15 Procurement Policy shall promulgate regulations applicable  
16 to contracts described in subsection (b) to minimize the ex-  
17 cessive use by contractors of subcontractors or tiers of sub-  
18 contractors in cases where a subcontractor does not perform  
19 work in proportion to any overhead or profit that the sub-  
20 contractor receives under the contract.

21       (b) *COVERED CONTRACTS*.—This section applies to  
22 any cost-reimbursement type contract or task or delivery  
23 order in an amount greater than the simplified acquisition  
24 threshold (as defined by section 4 of the Office of Federal  
25 Procurement Policy Act (41 U.S.C. 403)).

1 **SEC. 307. RESPONSIBILITY OF CONTRACTORS THAT ARE SE-**  
 2 **RIOUS THREATS TO NATIONAL SECURITY.**

3 (a) *RESPONSIBILITY OF CONTRACTOR.*—The con-  
 4 tracting officer for an executive agency may consider wheth-  
 5 er a contractor may pose a serious threat to national secu-  
 6 rity in assessing whether a contractor is responsible enough  
 7 to be awarded a Federal contract.

8 (b) *REGULATIONS.*—Not later than 180 days after the  
 9 date of the enactment of this Act, the Administrator for Fed-  
 10 eral Procurement Policy shall provide guidance to executive  
 11 agencies on implementation of this section.

12 **SEC. 308. REQUIRED CERTIFICATION OF PROGRAM MAN-**  
 13 **AGERS FOR DEPARTMENT OF HOMELAND SE-**  
 14 **CURITY LEVEL ONE PROGRAMS.**

15 Not later than one year after the date of the enactment  
 16 of this Act, the Secretary of Homeland Security shall assign  
 17 to each program of the Department of Homeland Security  
 18 with an estimated value of more than \$100,000,000 at least  
 19 one program manager certified by the Secretary as com-  
 20 petent to administer programs of that size.

21 **SEC. 309. ELIMINATION OF ONE-YEAR LIMITATION ON IN-**  
 22 **TEREST DUE ON LATE PAYMENTS TO CON-**  
 23 **TRACTORS.**

24 Section 3901(d)(3)(A) of title 31, United States Code,  
 25 is amended to read as follows:

1       “(3)(A) *Except as provided in subparagraph (B), an*  
 2 *interest penalty under this chapter does not continue to ac-*  
 3 *crue after a claim for an interest penalty is filed in the*  
 4 *manner described in paragraph (2).”.*

5       **SEC. 310. ENSURING THAT FEDERAL EMPLOYEES PERFORM**  
 6                               **INHERENTLY GOVERNMENTAL WORK.**

7       *The Administrator for Federal Procurement Policy*  
 8 *shall—*

9               (1) *analyze the services for which agencies are*  
 10 *contracting (other than through the process governed*  
 11 *by Office of Management and Budget Circular A-76);*

12              (2) *establish government-wide guidelines to en-*  
 13 *sure that inherently governmental work is performed*  
 14 *by Federal employees; and*

15              (3) *report to the Committee on Homeland Secu-*  
 16 *rity and Governmental Affairs of the Senate and the*  
 17 *Committee on Oversight and Government Reform of*  
 18 *the House of Representatives on actions taken under*  
 19 *this section not later than 180 days after the date of*  
 20 *the enactment of this Act.*

21       **SEC. 311. REPORT ON ACQUISITION ADVISORY PANEL RE-**  
 22                               **PORT IMPLEMENTATION.**

23       (a) *IN GENERAL.*—*Not later than 90 days after the*  
 24 *date of the enactment of this Act, the Director of the Office*  
 25 *of Management and Budget shall submit to the Committee*

1 *on Homeland Security and Governmental Affairs of the*  
 2 *Senate and the Committee on Oversight and Government*  
 3 *Reform of the House of Representatives a comprehensive re-*  
 4 *port on implementation of the recommendations of the Ac-*  
 5 *quisition Advisory Panel (in this section referred to as the*  
 6 *“Panel”) established under section 1423 of the Services Ac-*  
 7 *quisition Reform Act of 2003 (title XIV of Public Law 108–*  
 8 *136; 41 U.S.C. 405 note).*

9 (b) *CONTENT.—The report required under subsection*  
 10 *(a) shall include—*

11 (1) *a description of the implementation of the*  
 12 *recommendations of the Panel; and*

13 (2) *with respect to any recommendations of the*  
 14 *Panel not implemented, a justification and discussion*  
 15 *of the reasons for not implementing such rec-*  
 16 *ommendations.*

17 **SEC. 312. REPORT BY THE GOVERNMENT ACCOUNTABILITY**  
 18 **OFFICE.**

19 (a) *REPORT.—In order to assess additional actions*  
 20 *that should be taken to further improve the acquisition sys-*  
 21 *tem, the Comptroller General of the United States shall, not*  
 22 *later than 1 year after the date of the enactment of this*  
 23 *Act, conduct reviews and submit one or more reports to*  
 24 *Congress on Federal acquisition policy.*



1       (b) *CONTENT.*—*The report required under subsection*  
 2 *(a) shall include the following:*

3           (1) *An assessment of the 2 statutory standards*  
 4 *governing the qualifications of the government’s ac-*  
 5 *quisition workforce and an assessment of the imple-*  
 6 *mentation of and practical impact of both standards*  
 7 *and whether there should be a single standard for the*  
 8 *acquisition workforce.*

9           (2) *A list and assessment of all Federal institu-*  
 10 *tions providing acquisition and program manage-*  
 11 *ment education and training and a recommendation*  
 12 *on the advisability of continuing to offer education*  
 13 *and training through multiple institutions or whether*  
 14 *education and training should be combined at one*  
 15 *government-wide institution.*

16           (3) *A review of agency compliance with Section*  
 17 *1412 of the Services Acquisition Reform Act of 2003*  
 18 *(title XIV of Public Law 108–136; 41 U.S.C. 433*  
 19 *note), including whether agencies have appointed*  
 20 *Chief Acquisition Officers whose primary duties are*  
 21 *acquisition management, and recommendations for*  
 22 *the appointment of Chief Acquisition Officers govern-*  
 23 *ment-wide.*

24       (c) *GOVERNMENT ACCOUNTABILITY OFFICE RE-*  
 25 *VIEW.*—*Not later than 18 months after the date of the enact-*

1 *ment of this Act, the Comptroller General of the United*  
 2 *States shall review the determinations made by executive*  
 3 *agencies under section 303(g) regarding indefinite delivery,*  
 4 *indefinite quantity contracts and shall submit to Congress*  
 5 *a report on the implementation of requirements related to*  
 6 *such determinations.*

7 **SEC. 313. MAPPING AND SURVEYING SERVICES.**

8 *The Administrator for Federal Procurement Policy*  
 9 *shall amend the Federal Acquisition Regulation to provide*  
 10 *guidance on contracting for mapping and surveying serv-*  
 11 *ices in accordance with chapter 11 of title 40, United States*  
 12 *Code, to ensure that these services are being procured*  
 13 *through appropriate competitive procedures and that offers*  
 14 *are evaluated using a qualifications-based selection process.*

15 **SEC. 314. TIMELY AND ACCURATE TRANSMISSION OF IN-**  
 16 **FORMATION INCLUDED IN FEDERAL PRO-**  
 17 **CUREMENT DATA SYSTEM.**

18 *Section 19 of the Office of Federal Procurement Policy*  
 19 *Act (41 U.S.C. 417(d)) is amended to read as follows:*

20 *“(d) TRANSMISSION AND DATA ENTRY OF INFORMA-*  
 21 *TION.—The head of each executive agency shall ensure the*  
 22 *accuracy of the information included in the record estab-*  
 23 *lished and maintained by such agency under subsection (a)*  
 24 *and shall timely transmit such information to the General*  
 25 *Services Administration for entry into the Federal Procure-*

- 1 *ment Data System referred to in section 6(d)(4), or any*
- 2 *successor system.”.*

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110TH CONGRESS  
1ST Session

**S. 680**

**A BILL**

To ensure proper oversight and accountability in  
Federal contracting, and for other purposes.

OCTOBER 15, 2007

Reported with an amendment